



City of Morgan Hill Zoning Code

Municipal Code Title 18



City of Morgan Hill Zoning Code

Municipal Code Title 18

Prepared By:
Ben Noble, City and Regional Planning
PlaceWorks

TITLE 18 CONTENTS

User's Guide.....	GUIDE-1
-------------------	---------

DIVISION I: ZONING CODE

PART 1: GENERAL PROVISIONS

Chapter 18.04 – Introductory Provisions.....	4-1
---	------------

- 18.04.010 – Title
- 18.04.020 – Effective Date
- 18.04.030 – Authority
- 18.04.040 – Purpose of the Zoning Code
- 18.04.050 – Relationship to the General Plan
- 18.04.060 – Applicability and Jurisdiction
- 18.04.070 – Conflicting Provisions
- 18.04.080 – Transitional Provisions
- 18.04.090 – Severability

Chapter 18.08 – Interpretation of the Zoning Code.....	8-1
---	------------

- 18.08.010 – Purpose
- 18.08.020 – Authority
- 18.08.030 – Rules of Interpretation
- 18.08.040 – Land Use Regulations
- 18.08.050 – Zoning Map
- 18.08.060 – Procedures for Interpretation/Determinations

Chapter 18.12 – Rules of Measurement.....	12-1
--	-------------

- 18.12.010 – Purpose
- 18.12.020 – Building Coverage
- 18.12.030 – Density
- 18.12.040 – Distances
- 18.12.050 – Floor Area and Floor Area Ratio
- 18.12.060 – Height
- 18.12.070 – Lot Area and Dimensions
- 18.12.080 – Setbacks
- 18.12.090 – Slope

Chapter 18.14 – Zoning Districts and Map.....	14-1
--	-------------

- 18.14.010 – Purpose
- 18.14.020 – Zoning Districts
- 18.14.030 – Zoning Map

PART 2: ZONING DISTRICTS

Chapter 18.16 – Residential Detached Zoning Districts..... 16-1

- 18.16.010 – Purpose of the Residential Detached Zoning Districts
- 18.16.020 – Land Use Regulations
- 18.16.030 – Development Standards

Chapter 18.18 – Residential Attached Zoning Districts..... 18-1

- 18.18.010 – Purpose of the Residential Attached Districts
- 18.18.020 – Land Use Regulations
- 18.18.030 – Development Standards

Chapter 18.22 – Mixed Use Zoning Districts.....22-1

- 18.22.010 – Purpose of the Mixed Use Zoning Districts
- 18.22.020 – Land Use Regulations
- 18.22.030 – Mixed Use in the MU-F Zoning District
- 18.22.040 – Development Standards

Chapter 18.24 – Commercial Zoning Districts..... 24-1

- 18.24.010 – Purpose of the Commercial Zoning Districts
- 18.24.020 – Land Use Regulations
- 18.24.030 – Development Standards

Chapter 18.26 – Industrial Zoning Districts..... 26-1

- 18.26.010 – Purpose of the Industrial Zoning Districts
- 18.26.020 – Land Use Regulations
- 18.26.030 – Development Standards

Chapter 18.28 – Open Space, Public, and Recreation Zoning Districts..... 28-1

- 18.28.010 – Purpose of the Open Space, Public, and Recreation Zoning Districts
- 18.28.020 – Land Use Regulations
- 18.28.030 – Development Standards

Chapter 18.30 – Overlay Zones and Combining Districts..... 30-1

- 18.30.010 – Purpose of Overlay Zones and Combining Districts
- 18.30.020 – Downtown Ground Floor Overlay Zone
- 18.30.030 – Downtown Specific Plan Overlay Zone
- 18.30.040 – Hillside Combining District
- 18.30.050 – Planned Development Combining District
- 18.30.060 – Active Fault Surface Rupture Combining District

PART 3: CITYWIDE STANDARDS

Chapter 18.40 – Alternative Standards for Medium Density Residential Development.....40-1

- 18.40.010 – Purpose
- 18.40.020 – Applicability
- 18.40.030 – Design Permit Required
- 18.40.040 – Permitted Housing Types
- 18.40.050 – Development Standards
- 18.40.060 – Standards for all Housing Types
- 18.40.070 – Design Criteria for Small Lot Single-Family Subdivisions
- 18.40.080 – Special Criteria for Townhome Developments
- 18.40.090 – Special Criteria for Courtyard Home Development
- 18.40.100 – Special Criteria for Condominium Developments
- 18.40.110 – Special Criteria for Multi-Family Development

Chapter 18.44 – Accessory Structures and Uses..... 44-1

- 18.44.010 – Purpose
- 18.44.020 – Accessory Structures in all Zoning Districts
- 18.44.030 – Accessory Structures in Residential Zoning Districts
- 18.44.040 – Accessory Structures in Non-Residential Zoning Districts
- 18.44.050 – Accessory Uses

Chapter 18.48 – Affordable Housing..... 48-1

- 18.48.010 – Purpose
- 18.48.020 – Definitions
- 18.48.030 – Eligibility
- 18.48.040 – Density Bonuses
- 18.48.050 – Concessions and Incentives
- 18.48.060 – Additional Density Bonuses
- 18.48.070 – Affordability Requirements

Chapter 18.52 – Fences and Walls..... 52-1

- 18.52.010 – Purpose and Applicability
- 18.52.020 – Required Permits and Approvals
- 18.52.030 – Measurement of Fence and Wall Height
- 18.52.040 – Height Limits
- 18.52.050 – Exceptions to Height Limits
- 18.52.060 – Materials
- 18.52.070 – Nonconforming Fences and Walls

Chapter 18.56 – Height, Setback and Lot Coverage Exceptions..... 56-1

- 18.56.010 – Purpose
- 18.56.020 – Height Exceptions
- 18.56.030 – Setback Exceptions
- 18.56.040 – Lot Coverage Exceptions

Chapter 18.60 – Historic Resources.....60-1

- 18.60.010 – Purpose
- 18.60.010 – Applicability
- 18.60.020 – Definitions
- 18.60.030 – Identification of Historical Resources
- 18.60.040 – Local Register Designation Process
- 18.60.050 – Adopted Survey List Designation Process
- 18.60.060 – Determining if Historical Alternations, Demolition or Relocation Permits are Required
- 18.60.070 – Historical Alternations Permit
- 18.60.080 – Historical Resource Demolition or Relocation Permit
- 18.60.090 – Archaeologically Sensitive Areas
- 18.60.100 – Maintenance and Repair of Historic Resources
- 18.60.110 – Appeals
- 18.60.120 – Enforcement and Penalties
- 18.60.130 – Preservation Incentives

Chapter 18.64 – Landscaping..... 64-1

- 18.64.010 – Purpose
- 18.64.020 – Applicability
- 18.64.030 – Water Conservation in Landscaping Ordinance
- 18.64.040 – Landscape Plans
- 18.64.050 – Required Landscape Areas
- 18.64.060 – General Landscape Requirement
- 18.64.070 – Landscaping Maintenance and Enforcement

Chapter 18.68 – Nonconforming Uses and Structures..... 68-1

- 18.68.010 – Purpose
- 18.68.020 – Applicability
- 18.68.030 – General
- 18.68.040 – Nonconforming Parcels
- 18.68.050 – Nonconforming Use of Land
- 18.68.060 – Nonconforming Use of Structures
- 18.68.070 – Nonconforming Structures
- 18.68.080 – Findings

Chapter 18.70 – Geologic Hazards..... 70-1

- 18.70.010 – Purpose
- 18.70.020 – Definitions
- 18.70.030 – City Geologic Map Modification
- 18.70.040 – Geologic Clearance
- 18.70.050 – Geologic Evaluations
- 18.70.060 – Waiver of Geologic and Seismic Hazards Investigation Report Requirement
- 18.70.070 – Owner Obligations
- 18.70.080 – Additional Regulations
- 18.70.090 – Consistency with Other Regulations

Chapter 18.72 – Parking and Loading..... 72-1

- 18.72.010 – Purpose
- 18.72.020 – Applicability
- 18.72.030 – Required Parking Spaces
- 18.72.040 – General Requirements
- 18.72.050 – On-Site Parking Alternatives
- 18.72.060 – Parking Design and Development Standards
- 18.72.070 – Parking Lot Landscaping
- 18.72.080 – Bicycle Parking
- 18.72.090 – On-Site Loading

Chapter 18.76 – Performance Standards..... 76-1

- 18.76.010 – Purpose
- 18.76.020 – Applicability
- 18.76.030 – General Prohibitions
- 18.76.040 – Air Contaminants
- 18.76.050 – Fire and Explosive Hazards
- 18.76.060 – Glare
- 18.76.070 – Hazardous Materials
- 18.76.080 – Liquid and Solid Wastes
- 18.76.090 – Noise
- 18.76.100 – Odors
- 18.76.110 – Radioactivity
- 18.76.120 – Electromagnetic Interference
- 18.76.130 – Vibration

Chapter 18.80 – Recreational Vehicle Parks..... 80-1

- 18.80.010 – Purpose
- 18.80.020 – Definitions
- 18.80.030 – Compliance with State Law

- 18.80.040 – Permits Required
- 18.80.050 – Occupancy Requirements
- 18.80.060 – Development Standards

Chapter 18.84 – Accessory Dwelling Units..... 84-1

- 18.84.010 – Purpose
- 18.84.020 – Permits Required
- 18.84.030 – Permitted Zoning Districts
- 18.84.040 – Site and Design Standards
- 18.84.050 – Deed Restrictions

Chapter 18.88 – Signs.....88-1

- 18.88.010 – Purpose
- 18.88.020 – Definitions
- 18.88.030 – Required Permits
- 18.88.040 – Signs Allowed Without Permits
- 18.88.050 – Prohibited Signs
- 18.88.060 – General Standards
- 18.88.070 – Adjustments to Sign Standards
- 18.88.080 – Sign Standards for Non-Residential Zones
- 18.88.090 – Sign Standards for Residential and Open Space Zones
- 18.88.100 – Standards for Specific Sign Types
- 18.88.110 – Master Sign Program
- 18.88.120 – Temporary Signs
- 18.88.130 – Nonconforming Signs
- 18.88.140 – Violations and Enforcement

Chapter 18.92 – Supplemental Standards..... 92-1

- 18.92.010 – Purpose
- 18.92.020 – Adult Businesses
- 18.92.030 – Convenience Markets
- 18.92.040 – Drive-Through Facilities
- 18.92.050 – Emergency Shelters
- 18.92.060 – Home Occupations
- 18.92.070 – Interim Uses in the MU-D and MU-F Zoning Districts
- 18.92.080 – Intersection Sight Distance
- 18.92.090 – Medical Marijuana
- 18.92.100 – Mini-Storage
- 18.92.110 – Natural Resource and Hazard Setbacks
- 18.92.120 – Outdoor Sales and Displays
- 18.92.130 – Residential Transition Standards
- 18.92.140 – Rooftop Solar Energy Systems
- 18.92.150 – Temporary Uses and Structures

Chapter 18.96 – Wireless Communication Facilities.....96-1

- 18.96.010 – Purpose and Legislative Intent
- 18.96.020 – Definitions
- 18.96.030 – Applicability and Exemptions
- 18.96.040 – Required Permits
- 18.96.050 – Application Submittal and Review; Post-Approval Permit Requirements
- 18.96.060 – Section 6409(a) Modifications
- 18.96.070 – Preferred Siting and Location
- 18.96.080 – Development Standards
- 18.96.090 – Operation and Maintenance Requirements
- 18.96.100 – Limited Waivers
- 18.96.110 – Severability

PART 4: PERMITS AND ADMINISTRATION

Chapter 18.100 – Administrative Responsibility.....100-1

- 18.100.010 – Purpose
- 18.100.020 – Planning Agency
- 18.100.030 – Review and Decision-Making Authority

Chapter 18.104 – Common Permit Requirements.....104-1

- 18.104.010 – Purpose
- 18.104.020 – Application Preparation and Filing
- 18.104.030 – Application Fees
- 18.104.040 – Application Review
- 18.104.050 – Multiple Permit Applications
- 18.104.060 – Project Evaluation and Staff Reports
- 18.104.070 – Environmental Review
- 18.104.080 – Applications Deemed Withdrawn
- 18.104.090 – Notice of Hearing
- 18.104.100 – Notice of Pending Action
- 18.104.110 – Scheduling of Hearing
- 18.104.120 – Hearing Procedure
- 18.104.130 – Recommendations
- 18.104.140 – Decision and Notice
- 18.104.150 – Conditions of Approval
- 18.104.160 – Effective Date of Decision
- 18.104.170 – Issuance of Permits
- 18.104.180 – Conformance to Approved Plans
- 18.104.190 – Performance Guarantees
- 18.104.200 – Changes to an Approved Project

- 18.104.210 – Time Limits and Extensions
- 18.104.220 – Resubmittals
- 18.104.230 – Permits to Run with the Land
- 18.104.240 – Permit Revocation

Chapter 18.108 – Specific Permit Requirements.....108-1

- 18.108.010 – Purpose
- 18.108.020 – Administrative Use Permits
- 18.108.030 – Conditional Use Permits
- 18.108.040 – Design Permit
- 18.108.050 – Historic Alteration Permit
- 18.108.060 – Historic Demolition or Relocation Permit
- 18.108.070 – Minor Exceptions
- 18.108.080 – Sign Permits
- 18.108.090 – Temporary Use Permits
- 18.108.100 – Variances

Chapter 18.112 – Appeals.....112-1

- 18.112.010 – Purpose
- 18.112.020 – Appeal Subjects and Jurisdiction
- 18.112.030 – Filing and Processing of Appeals
- 18.112.040 – Judicial Review

Chapter 18.114 – Zoning Code Amendments.....114-1

- 18.114.010 – Purpose
- 18.114.020 – Initiation
- 18.114.030 – Application
- 18.114.040 – Planning Commission Hearing and Action
- 18.114.050 – City Council Hearing and Action
- 18.114.060 – Findings for Approval
- 18.114.070 – Effective Date
- 18.114.080 – Limitations on Resubmittals after Denial

Chapter 18.116 – Development Agreements..... 116-1

- 18.116.010 – Purpose
- 18.116.020 – Applications
- 18.116.030 – Contents of Development Agreements
- 18.116.040 – Consideration of Proposed Development Agreements
- 18.116.050 – Execution and Recordation of Development Agreement
- 18.116.060 – Annual Review
- 18.116.070 – Cancellation or Modification
- 18.116.080 – Miscellaneous Provisions

Chapter 18.118 – Reasonable Accommodations.....118-1

- 18.118.010 – Purpose
- 18.118.020 – When Allowed
- 18.118.030 – Review Authority
- 18.118.040 – Public Notice of Process Availability
- 18.118.050 – Application Requirements
- 18.118.060 – Review Procedure
- 18.118.070 – Criteria for Decision
- 18.118.080 – Conditions of Approval
- 18.118.090 – Appeals

Chapter 18.120 - Enforcement.....120-1

- 18.120.010 – Purpose
- 18.120.020 – Violations
- 18.120.030 – Permits and Approvals
- 18.120.040 – Enforcement Responsibility
- 18.120.050 – Enforcement Procedures
- 18.120.060 – Continuing Violations
- 18.120.070 – Remedies
- 18.120.080 – Remedies are Cumulative

PART 5: GLOSSARY

Chapter 18.124 – Land Use Definitions..... 124-1

- 18.124.010 – Purpose
- 18.124.020 – Residential Land Uses
- 18.124.030 – Public and Quasi-Public Uses
- 18.124.040 – Commercial Uses
- 18.124.050 – Industrial Uses
- 18.124.060 – Transportation, Communication, and Utility Uses
- 18.124.070 – Agriculture and Natural Resource Uses

Chapter 18.128 – General Terms.....128-1

- 18.128.010 – Purpose
- 18.128.020 – Definitions

DIVISION II: DEVELOPMENT AND CONSERVATION

Division II (Development and Conservation) of the Development Code is provided under separate cover and contains the following chapters:

- 18.132 - Habitat Conservation Plan
- 18.136 - CEQA Guidelines
- 18.140 - Post Construction Stormwater Pollution Prevention
- 18.144 - School Impaction
- 18.148 - Water Conservation in Landscaping
- 18.152 – Agricultural Mitigation
- ~~18.152 – Flood Damage Prevention (Moved to Title 15 as Chapter 15.80, Ord. No. 2261ns)~~

Division II chapters are carried forward from the existing Zoning Code and will be edited for style and clarity. No substantive changes will be made, except for changes to Chapter 18.144 (School Impaction) to reflect changes to state law adopted after this chapter was originally adopted.

DIVISION III: RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCE)

In November of 2016 the voters approved the current version of the RDCE, known as Measure S, codified as Chapter 18.78 of the Municipal Code, available here:

<https://www.morgan-hill.ca.gov/655/Municipal-Code>

ZONING CODE USER'S GUIDE

General Plan and Zoning Code Overview

On July 27, 2016 the City of Morgan Hill adopted an updated General Plan - the City's primary policy document governing local land use and development. The General Plan contains a Land Use Map identifying permitted land uses and development intensities, and establishes basic policies to guide development and conservation decisions in Morgan Hill over the next twenty years.

Morgan Hill's Zoning Code, codified as Title 18 in the Morgan Hill Municipal Code, implements the General Plan with detailed land use and development regulations. The Zoning Code establishes a Zoning Map with zoning districts that apply to all property in Morgan Hill. The Zoning Code identifies exactly which land uses are allowed in each zoning district and establishes the permitted building heights, minimum setbacks from property lines, and other development standards in each zoning district.

In addition to development standards, the Zoning Code also establishes standards for signs, parking, landscaping, wireless communications, historic resources, and many other topics. Finally, the Zoning Code identifies permits required for different land uses and types of development, and the process by which the City reviews permit applications and administers the requirements of the Zoning Code.

Relationship to the Residential Development Control System (RDCS)

In addition to updating the General Plan and Zoning Code, the City has also updated its Residential Development Control System (RDCS). The RDCS is the City's growth management program that establishes an overall population limit, limits the amount of residential development each year, and requires proposed projects to compete each year for residential building allotments. In November of 2016 the voters approved the current version of the RDCS, known as Measure S, codified as Chapter 18.78 of the Municipal Code. In June 2017 the City also adopted the RDCS Competition Manual, which contains the criteria and standards that the City of Morgan Hill uses to award residential allotments to projects

Preparation of the Zoning Code

Over the past several years, the City has been working on the update to the Zoning Code. In 2015 and 2016 the City hosted a number of meetings with frequent users of the Zoning Code, City staff, and the Planning Commission to assess the strengths and weaknesses of the existing Zoning Code and to discuss the general approach to the Zoning Code Update. Based on this input City staff and consultants prepared Public Review Draft Zoning Code Update, which was published on [date of publication].

In mid-~~to-late~~ 2017 the Planning Commission ~~and City Council will meet~~ to review the Public Review Draft Zoning Code and receive public comments on the draft document. Following these meetings, ~~the~~ City ~~staff will prepare~~d a revised updated Zoning Code (~~this document~~)

and conducted environmental review as required by the California Environmental Quality Act (CEQA). Changes made to the Public Review Draft Zoning Code are shown in underline strikethrough text. The City aims to adopt the updated Zoning Code and Zoning Map ~~by December in mid-~~2018⁷.

Organization of the Zoning Code

The updated Zoning Code is organized into five parts, as follows:

- **Part 1 – General Provisions.** Part 1 legally establishes the Zoning Code, identifies rules for interpreting the Zoning Code, establishes rules for measurement, and identifies the Zoning districts and overlay zones established in the Zoning Map.
- **Part 2 – Zoning Districts and Overlay Zones.** Part 2 contains the land use regulations and development standards that are unique to each zoning district and overlay zone.
- **Part 3 – Citywide Standards.** Part 3 contains standards that apply to all property in Morgan Hill, addressing issues such as parking, signs, landscaping, and accessory structures.
- **Part 4 – Permits and Administration.** Part 4 identifies procedures and requirements for permits and other approvals required by the zoning codes, and procedures for the administration of the zoning code.
- **Part 5 – Glossary.** Part 5 defines all specialized terms used in the Zoning Code.

Numbering and Referencing

The numbering system used in the updated Zoning Code continues the system in the existing Zoning Code and is consistent with other titles in the Municipal Code. The updated Zoning Code is organized as follows:

Title 18 – Zoning Code

Chapter 18.04 – Chapter Name

18.04.010 – Title of First Section

A. Subsection

1. Paragraph

a. Subparagraph

i. Sub-subparagraph

Changes to the Existing Zoning Code

The Zoning Code Update has resulted in a number of significant changes to Morgan Hill's existing Zoning Code. Some of these changes are organizational and stylistic, others are substantive.

Overall, the Zoning Code has been reorganized so that readers can more easily find content and be aware of applicable requirements. Standards are presented in tables and graphics are used to illustrate important concepts and requirements. The Zoning Code has been written in Plain English with short and simple sentences and use of everyday words where possible.

Substantive changes to the Zoning Code implement policies in the General Plan and input from the Planning Commission, developers, and City staff on the strengths and weaknesses of the existing Zoning Code. Some substantive changes also address recent changes to state and federal law and to improve the legal defensibility of the City's development regulations.

In the updated Zoning Code substantive changes to the existing Zoning Code are identified with a note that looks like this:

► *Note: Substantive changes to the existing zoning code are noted using italicized text in this format.*

These notes highlight key changes to aid the City Council, Planning Commission, and public in the review of the updated Zoning Code. Some of these changes noted in the updated Zoning Code include the following:

General Provisions (Part 1)

- **Zoning Districts.** New Mixed Use Flex (MU-F) zoning district that applies to portions of the Monterey Road corridor. The existing Theme Unit Development and Administrative Office zoning districts are eliminated.
- **Overlay Zones.** A new Downtown Specific Plan overlay zone is added and the existing Geologic overlay zone is removed as an overlay zone and treated instead as a citywide standard in Part 3.
- **Zoning Map.** Zoning district boundaries have been changed to be consistent with the General Plan Land Use Map and reflect changes to the zoning district and overlay zones established in the Zoning Code.

Zoning Districts and Overlay Zones (Part 2)

- **Mixed Use Development.** New requirements for mixed-use development in the Mixed Use Flex (MU-F) zoning district.
- **Planned Development.** New minimum property size for PD projects and requirement that project contributes a significant public benefit.

Citywide Standards (Part 3)

- **Standards for Medium Density Residential Development.** Recently adopted standards for homes in ~~R-2~~the RAL and ~~R-3~~RAM zones ~~made clarified as~~ optional, not mandatory.

- **Parking.** New on-site parking alternatives, parking design standards, parking lot landscaping standards, and bicycle parking standards.
- **Signs.** Revisions to existing sign code to comply with recent court decisions relating to content-neutrality requirements.
- **Wireless Communication Facilities.** New wireless communication facilities chapter.

Permits and Administration (Part 4)

- **Common Permit Requirements.** Standardized permit application filing and review procedures that apply uniformly to all permits.
- **Administrative Use Permit.** New Administrative Use Permit approved by the Community Development Director.
- **Design Permits.** New design review criteria for the approval of Design Permits.
- **Reasonable Accommodations.** New process to approve exceptions to the Zoning Code to accommodate persons with disabilities.

Using the Zoning Code

Below is a general summary of how to use the updated Zoning Code. This summary is intended to help property owners and other applicants understand how the Zoning Code works and the process to determine whether a proposed project complies with applicable regulations.

All project applicants are encouraged to contact the Community Development Department to verify the standards and requirements that apply to a proposed project before preparing and submitting a project application.

Step 1: Identify your Zoning District and Any Overlay Zones

Identify the zoning district and any overlay zones that apply to your property. You can find your property on the Zoning Map, which shows the zoning districts and overlay zones that apply to it. Table 18.14-1 (Base Zoning Districts) in Chapter 18.14 lists all zoning districts in Morgan Hill, and Table 18.14-2 (Overlay Zones) lists all of the overlay zones. Each property in Morgan Hill is assigned one base zoning district. Some properties are subject to one or more overlay zones, but not all.

Step 2: Determine if your Land Use is Permitted

After you have identified the zoning district and any overlay zones that apply to your property, determine if your existing or proposed land uses are permitted. Each chapter within Part 2 of the Zoning Code contains a table that list permitted land uses in the zoning district. For example, Table 18.16-1 lists permitted land uses in the residential detached zoning districts. If your property is in a residential detached zoning district, look in this table to determine if your land use is permitted. Using the key provided at the top of the table, determine if you land use is permitted by right or permitted with an Administrative Use Permit or Conditional Use Permit.

All land uses listed in the land use regulation table are defined in Chapter 18.124 (Land Use Definitions). If your land use does not clearly fall within a land use defined in the Zoning Code, the Community Development Director will determine if the land use should be treated the same as an equivalent listed land use following the procedures in Section 18.08.0040.B (Unlisted Land Uses).

If your property is subject to one or more overlay zones, you also need to determine if your land use is permitted within the overlay zones. Land use regulations for overlay zones are found in Chapter 18.30 (Overlay Zones).

Step 3: Identify Development Standards in your Zoning District

Next, identify the development standards in your zoning districts and overlay zones if applicable. For each zoning district the Zoning Code establishes standards including minimum setbacks from property lines, maximum building height, and other limitations on the size, placement, and design of development.

Development standards for each zoning district are provided in Part 2 of the Zoning Code. For residential detached zoning districts, development standards can be found in Section 18.16.030 (Development Standards) of Chapter 18.16 (Residential Detached Zoning Districts). Basic site and structure requirements are typically presented in a table followed by text with additional requirements or exceptions. Development standard tables may reference other sections of the Zoning Code that are relevant to your project.

Like with land use regulations, if your property is subject to one or more overlay zones, you also need to determine that your project complies with any additional development standards for the overlay zones.

Step 4: Identify Other Applicable Development Standards and Land Use Regulations

After you've determined that your project complies with land use regulations and development standards that are unique to your zoning district and overlay zone, determine that your project complies with citywide standards. These citywide standards are in Part 3 of the Zoning Code and include parking (Chapter 18.72), landscaping (Chapter 18.64), and signs (Chapter 18.88) for commercial projects. The ~~Community~~ Development Services Department will help you to identify which standards apply to your project and whether your project complies with these standards.

Certain land uses also are subject to special standards located in Chapter 18.92 (Supplemental Standards) of the Zoning Code. Land Use regulation tables for zoning districts in Part 2 include references to any supplemental standards. If your land use is subject to supplemental standards, review the applicable standards in Chapter 18.92 to ~~verify compliance~~. The ~~Community~~ Development Services Department will help to identify any applicable standards and your compliance.

Step 5: Identify Required Permits and Approvals

After you've determined that your project complies with all applicable standards and regulations, you need to determine which permits and approvals are required. The land use

regulation tables in Part 2 identifies which permits are required for the land use (Minor Use Permit, Conditional Use Permit) or no permit (permitted by right).

If you propose a physical change to a structure or site, your project may require a Design Permit. Projects that require a Design Permit are listed in Section 18.108.040 (Design Permits). Most Design Permits are approved by the Community Development Director, though some are approved by the Planning Commission.

Your project may require other types of permits, such as a Sign Permit for signs or a Historic Alteration Permits for modifications to a historic property. All permits required by the Zoning Code all listed in Table 18.100-1 in Chapter 18.100 (Administrative Responsibility) and chapters for each permit are in Part 4 of the Zoning Code. Be sure to review with a City Planner all required permits for your project.

Once you have identified which permits are required for your project, you need to identify the procedures and requirements to obtain approval. Find the section for each required permit in Chapter 18.108 (Specific Permit Requirements), and review the requirements. This chapter will tell you whether the Planning Commission or the Community Development Director approves the permit, whether a public hearing is required, and the criteria that the City will use to approve your project. Chapter 18.104 describes procedures that apply to all type of permits, such as application submittal requirements, public notice, and changes to approved projects. All decisions of the Community Development Director and Planning Commission may be appealed to either the Planning Commission or City Council as described in Chapter 18.122 (Appeals).

PART 1

General Provisions

Chapter 18.04 – Introductory Provisions.....4-1

- 18.04.010 – Title
- 18.04.020 – Effective Date
- 18.04.030 – Authority
- 18.04.040 – Purpose of the Zoning Code
- 18.04.050 – Relationship to the General Plan
- 18.04.060 – Applicability and Jurisdiction
- 18.04.070 – Conflicting Provisions
- 18.04.080 – Transitional Provisions
- 18.04.090 – Severability

Chapter 18.08 – Interpretation of the Zoning Code..... 8-1

- 18.08.010 – Purpose
- 18.08.020 – Authority
- 18.08.030 – Rules of Interpretation
- 18.08.040 – Land Use Regulations
- 18.08.050 – Zoning Map
- 18.08.060 – Procedures for Interpretation/Determinations

Chapter 18.12 – Rules of Measurement..... 12-1

- 18.12.010 – Purpose
- 18.12.020 – Building Coverage
- 18.12.030 – Density
- 18.12.040 – Distances
- 18.12.050 – Floor Area and Floor Area Ratio
- 18.12.060 – Height
- 18.12.070 – Lot Area and Dimensions
- 18.12.080 – Setbacks
- 18.12.090 – Slope

Chapter 18.14 – Zoning Districts and Map.....14-1

- 18.14.010 – Purpose
- 18.14.020 – Zoning Districts
- 18.14.030 – Zoning Map

– This Page is Intentionally Blank –

Chapter 18.04 – INTRODUCTORY PROVISIONS

Sections:

- 18.04.010 – Title
- 18.04.020 – Effective Date
- 18.04.030 – Authority
- 18.04.040 – Purpose of the Zoning Code
- 18.04.050 – Relationship to the General Plan
- 18.04.060 – Applicability and Jurisdiction
- 18.04.070 – Conflicting Provisions
- 18.04.080 – Transitional Provisions
- 18.04.090 – Severability

18.04.010 – Title

Division I of Title 18 of the Morgan Hill Municipal Code shall be known and cited as the “Morgan Hill Zoning Code” and referred to in this title as the “Zoning Code.”

18.04.020 – Effective Date

The Zoning Code takes effect and is in force from and after [date of adoption].

18.04.030 – Authority

► *Note: The reference to California Government Code Section 65850 this section is new.*

The Zoning Code is adopted pursuant to the authority in Section 65850 of the California Government Code and all other relevant laws of the State of California. Whenever the Zoning Code refers to a section of state law that is later amended or superseded, the Zoning Code shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

18.04.040 – Purpose of the Zoning Code

► *Note: This purpose statement amends existing Section 18.02.030 (Purpose of Provisions) to reflect the updated General Plan.*

- A. **General.** The purpose of the Zoning Code is to implement the General Plan and to protect the public health, safety, and welfare.
- B. **Specific.** The Zoning Code is intended to:
 - 1. Preserve and enhance Morgan Hill’s small-town feel and family friendly character.

2. Ensure that all development exhibits high-quality design that supports a unique sense of place.
3. Protect and enhance the quality of life in residential neighborhoods.
4. Encourage active and inviting commercial and mixed-use areas.
5. Support a vibrant, diverse, and dynamic local economy.
6. Allow for a broad range of housing choices that meets the needs of all segments of the community.
7. Protect environmental resources and promote a sustainable development pattern.
8. Preserve viable agricultural land, important habitat areas, and recreational open space.
9. Support a balanced transportation system that accommodates the needs of automobiles, pedestrians, and bicycles.

18.04.050 – Relationship to the General Plan

The Zoning Code implements the City of Morgan Hill General Plan by establishing detailed regulations for land uses, structures and activities in Morgan Hill. ~~—~~ All land uses, structures, and activities in Morgan Hill shall be consistent with the General Plan.

18.04.060 – Applicability and Jurisdiction

► *Note. Subsections C (Governmental Activities), D (Public Utilities), and E (Emergency Powers) are new.*

- A. **General.** The Zoning Code applies to all land uses, structures, and activities in the City of Morgan Hill unless an exemption is specifically provided by the Zoning Code.
- B. **Compliance Required.** No land use shall be established nor shall any structure be constructed, altered, or moved until:
 1. All applicable development review and approval processes have been followed;
 2. All applicable approvals have been obtained; and
 3. All required permits or authorizations to proceed have been issued.
- C. **Governmental Activities.** The Zoning Code applies to special districts and state or federal governmental agencies to the extent legally permissible. The Zoning Code does not apply to public projects of the City of Morgan Hill. ~~—~~ Private projects on leased lands owned by the City are not public projects of the City.

- D. Public Utilities.** Public utility facilities are subject to the requirements of the Zoning Code except to the extent provided by Government Code Section 53091 and the California Public Utilities Code.
- E. Emergency Powers.** The City Council may authorize deviations from the Zoning Code during a local emergency declared and ratified under the Morgan Hill Municipal Code. The City Council may authorize a deviation by resolution without notice or public hearing.

18.04.070 – Conflicting Provisions

► *Note: Subsections A (Conflict with State or Federal Regulations) and C (Conflict with Private Agreements) are new. Subsection B (Conflicts with Other City Regulations) modifies existing Section 18.02 (Title Provisions Not Exclusive – Resolution of Conflicts) to state that in the event of Zoning Code conflict with other City regulations, the more restrictive controls.*

- A. Conflict with State or Federal Regulations.** Where conflict occurs with state or federal laws, higher law shall control over lower law unless local variation is permitted.
- B. Conflict with Other City Regulations.** Where the Zoning Code conflicts with other ordinances, resolutions, or regulations of the City of Morgan Hill, the more restrictive shall control.
- C. Conflict with Private Agreements.** It is not the intent of the Zoning Code to interfere with, abrogate, or annul any easement, covenant, deed restriction, or other agreement between private parties. If the Zoning Code imposes a greater restriction than imposed by a private agreement, the Zoning Code shall control. Private agreements may impose greater restrictions than the Zoning Code, but the City is not responsible for monitoring or enforcing private agreements.

18.04.080 – Transitional Provisions

► *Note: This section replaces existing Section 18.02.040 (Prior Rights and Actions) to provide greater detail on how prior approvals, projects, and regulations relate to the updated Zoning Code.*

- A. Relation to Prior Ordinances.** This Zoning Code supersedes the prior Zoning Code codified in Title 18 of the Morgan Hill Municipal Code.
- B. Violations Continue.** Any violation of the prior Zoning Code will continue to be a violation under this Zoning Code subject to penalties and enforcement under Chapter 18.120 (Enforcement) unless the use, structure, or activity complies with this Zoning Code.

C. Nonconforming Parcels, Uses, and Structures. ~~A legal nonconforming~~ ~~The Zoning Code is not retroactive on a~~ parcel, land use, or structure ~~lawfully established before the effective date of the Zoning Code or any applicable amendment. An existing land use or structure that was legally established but does not fully comply the Zoning Code~~ may be maintained ~~and continue in compliance as allowed by with~~ Chapter 18.68 (Nonconforming Uses and Structures).

D. Previously Approved Projects and Projects in Progress. Permits and approvals valid on or before the effective date of this Zoning Code remain valid until their expiration date. ~~Projects with valid approvals or permits may be carried out in accordance with the development standards in effect at the time of approval, provided that the permit or approval is valid and has not lapsed. A re-application for a permit or approval that expires after the effective date of this Zoning Code shall fully comply with the standards in effect at the time of re-application.~~

E. Transition to New Zoning Districts.

1. -Upon the effective date of this Zoning Code, land that is zoned with a zoning district classification from the previous Zoning Code shall be re-classified or translated to one of the zoning districts as established in Chapter 18.14 (Zoning Districts and Map) and shown on the Zoning Mapset forth in this Zoning Code by separate action of the City Council.

4-2. A property shall comply with the regulations of its zoning district classification as shown on the Zoning Map.

F. Planned Development Zoning Districts. Requirements that applied within a Planned Development zoning district existing before the effective date of the Zoning Code shall remain in full force and effect.

G. References to Prior Zoning Districts.

1. In cases where City ordinances, policies, conditions of approval, and other requirements reference a zoning district classification from the previous Zoning Code, such references shall be interpreted to mean the equivalent zoning district in this Zoning Code as shown in Table 18.04-1.

2. For requirements based on previous zoning districts with no equivalent zoning district in this Zoning Code, the requirements of the previous zoning district in effect at the time the reference was established shall continue to apply.

TABLE 18.04-1: EQUIVALENT ZONING DISTRICTS

<u>Zoning District from Previous Zoning Code</u>	<u>Equivalent Zoning District in this Zoning Code</u>
<u>Residential Zoning Districts</u>	
<u>Residential Estates (RE)</u>	<u>Residential Estate (RE)</u>
<u>Single-Family Low Density Residential (R-1)</u>	<u>Residential Detached Low Density (RDL)</u>
<u>Single-Family Medium Density Residential (R-1)</u>	<u>Residential Detached Medium Density (RDM)</u>
<u>High Density Single-Family Residential (R-1)</u>	<u>Residential Detached High Density (RDH)</u>
<u>Medium-Density Residential (R-2)</u>	<u>Residential Attached Low Density (RAL)</u>
<u>Medium-Density Residential (R-3)</u>	<u>Residential Attached Medium Density (RAM)</u>
<u>High-Density Residential (R-4)</u>	<u>Residential Attached High Density (RAH)</u>
<u>Mixed Use Zoning Districts</u>	
<u>Central Business District (CBD)</u>	<u>Downtown Mixed Use (MU-D)</u>
<u>Central Commercial/Residential (CC-R)</u>	<u>Neighborhood Mixed Use (MU-N)</u>
<u>Light Commercial/Residential (CL-R)</u>	<u>Mixed Use Flex (MU-F)</u>
<u>Commercial Zoning Districts</u>	
<u>Neighborhood Commercial (CN)</u>	<u>Neighborhood Commercial (CN)</u>
<u>General Commercial (CG)</u>	<u>General Commercial (CG)</u>
<u>Highway Commercial (HC)</u>	<u>Highway Commercial (CH)</u>
<u>Service Commercial (CS)</u>	<u>Service Commercial (CS)</u>
<u>Theme Unit Development (TUD)</u>	<u>No equivalent zoning district</u>
<u>Administrative Office (CO)</u>	<u>No equivalent zoning district</u>
<u>Industrial Zoning Districts</u>	
<u>No equivalent zoning district</u>	<u>Commercial Industrial (CI)</u>
<u>Office Industrial (MO)</u>	<u>Office Industrial (IO)</u>
<u>Campus Industrial (MC)</u>	<u>Campus Industrial (IC)</u>
<u>Light Industrial (ML)</u>	<u>Light Industrial (IL)</u>

<u>Zoning District from Previous Zoning Code</u>	<u>Equivalent Zoning District in this Zoning Code</u>
<u>General Industrial (MG)</u>	<u>General Industrial (IG)</u>
<u>Public, Open Space, and Recreational Zoning Districts</u>	
<u>Open Space (OS)</u>	<u>Open Space (OS)</u>
<u>Public Facilities (PF)</u>	<u>Public Facilities (PF)</u>
<u>Sports Recreation Leisure (SRL)</u>	<u>Sports Recreation Leisure (SRL)</u>
<u>Overlay Zones and Combining Districts</u>	
<u>Active Fault Surface Rupture Combining District (AFSR)</u>	<u>Active Fault Surface Rupture Combining District (AFSR)</u>
<u>Downtown Ground Floor Overlay (GF)</u>	<u>Downtown Ground Floor Overlay Zone (DGF)</u>
<u>Hillside Combining (H)</u>	<u>Hillside Combining District (H)</u>
<u>Planned Development Overlay (PD)</u>	<u>Planned Development Combining District (PD)</u>
<u>Seismic Combining (S)</u>	<u>No equivalent zoning district</u>
<u>Geologic Combining (G)</u>	<u>No equivalent zoning district</u>
<u>Legacy Zones</u>	
<u>Residential Planned Development (RPD)</u>	<u>No equivalent zoning district</u>
<u>Planned Unit Development (PUD)</u>	<u>No equivalent zoning district</u>
<u>Conditional (C)</u>	<u>No equivalent zoning district</u>

18.04.090 – Severability

► *Note: This section is new.*

If any portion of the Zoning Code is found invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Zoning Code. The City Council hereby declares that it would have passed the Zoning Code, and each portion thereof, regardless of the fact that a portion has been declared invalid or unconstitutional.

Chapter 18.08 – INTERPRETATION OF THE ZONING CODE

Sections:

- 18.08.010 – Purpose
- 18.08.020 – Authority
- 18.08.030 – Rules of Interpretation
- 18.08.040 – Land Use Regulations
- 18.08.050 – Zoning Map
- 18.08.060 – Procedures for Interpretation/Determinations

► *Note: This chapter is new except as noted below.*

18.08.010 – Purpose

This chapter establishes rules and procedures for interpreting the Zoning Code to ensure that it is applied and enforced in a consistent manner.

18.08.020 – Authority

The City Council delegates to the Community Development Director and the Director's designees the authority to interpret the meaning and applicability of all provisions in the Zoning Code.

18.08.030 – Rules of Interpretation

- A. Meaning and Intent.** All language shall be construed according to the purpose and intent set out in Section 18.04.040 (Purpose of the Zoning Code).
- B. Minimum Requirements.** The Zoning Code establishes minimum requirements for the promotion of the public health, safety, and general welfare. When the Zoning Code provides for discretion on the part of a City official or body, that discretion may be exercised to impose more stringent requirements as necessary to achieve the purpose and intent of the Zoning Code set out Section 18.04.040 (Purpose of the Zoning Code).
- C. Headings, Illustrations, and Text.** In cases where text conflicts with any heading, table, or figure, the text controls.
- D. Lists and Examples.** Unless otherwise specifically indicated, lists of items or examples that use terms such as “including,” “such as,” or similar language are intended to provide examples, not to be exhaustive lists of all possibilities.
- E. Computation of Time.** References to days are calendar days unless otherwise stated. When business days are referenced, they shall include only days when City Hall is open. The end of a time period shall be computed by excluding the first day and including the

last day. If the last day is a holiday observed by the City or a City Hall non-business day, that day shall be excluded.

- F. References to Other Regulations, Publications, and Documents.** Whenever reference is made to a resolution, ordinance, regulation, or document, it shall be construed as a reference to the most recent edition of such resolution, ordinance, regulation, or document, unless specifically stated.
- G. Technical and Non-Technical Terms.** Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
- H. Public Officials and Agencies.** All public officials, bodies, and agencies to which references are made are those of the City of Morgan Hill, unless otherwise indicated.
- I. Mandatory and Discretionary Terms.** The words “shall,” “will,” ~~and~~ “must,” and “is” are always mandatory. The words “may” and “should” are advisory and discretionary terms.
- J. Conjunctions.** Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:
 1. “And” means that all connected items, conditions, provisions, or events apply.
 2. “And/or” means that the connected words or provisions may apply singularly or in any combination.
 3. “Or” means that one or more of the connected items, conditions, provisions, or events may apply.
 4. “Either...or” means that the connected words or provisions shall apply singularly but not in combination.
- K. Tenses and Plurals.** Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular includes the plural, and the plural includes the singular.
- L. Terms Not Defined.** In the event there is a term used in the Zoning Code that is not defined in this title, the Community Development Director shall have the authority to provide a definition based upon intended meaning of the undefined term.

18.08.040 – Land Use Regulations

-
- *Note: Subsection B (Unlisted Land Uses) replaces language in the existing Zoning Code that allows the Planning Commission to grant a CUP for uses “of similar nature to the permitted uses and conditional uses” in each zoning district.*
-

A. Land Use Regulation Tables. Land use regulation tables in Part 2 (Zoning Districts and Overlay Zones) establish permitted land uses within each zoning district. Notations within these tables have the following meanings:

1. **Permitted Uses.** A “P” means that a use is permitted by right in the zoning district and is not subject to discretionary review and approval.
2. **Conditionally Permitted Uses.** A “C” means that a use requires approval of a Conditional Use Permit. An “A” means that a use requires approval of an Administrative Use Permit.
3. **Uses Not Allowed.** A “-” means that a use is not allowed in the zoning district.

B. Unlisted Land Uses.

1. A land use~~s~~ not listed in a land use regulation table is not permitted if the use is listed as a permitted use in one or more other zoning districts. In such a case, the absence of the use in the land use regulation table means that the use is prohibited in the zoning district.
2. For a proposed use~~s~~ unlisted in all land use regulation tables, the Community Development Director may determine that the proposed use is equivalent to a permitted or conditionally permitted use if all of the following findings can be made:
 - a. The use is similar to other uses allowed in the zoning district.
 - b. The density or intensity of the use is similar to other uses in the zoning district.
 - c. The use is compatible with permitted or conditionally permitted uses in the zoning district.
 - d. The use will meet the purpose of the zoning district.
 - e. The use is consistent with the goals and policies of the General Plan.
 - f. The use will not be detrimental to the public health, safety, or welfare.
3. When the Community Development Director determines that a proposed use is equivalent to a listed use, the proposed use shall be treated in the same manner as the listed use with respect to development standards, permits required, and all applicable requirements of the Zoning Code.

C. Unlawful Uses. Uses that are unlawful under federal or state law are prohibited uses within Morgan Hill.

18.08.050 – Zoning Map

► *Note: Subsection A (Zoning Map Boundaries) carries forward existing Section 18.06.040 (Districts – Boundary Line Interpretation) except that Paragraphs 3 and 4 are new and Paragraph 6 assigns the Community Development Director the role of resolving uncertain rather than the Planning Commission.*

A. Zoning Map Boundaries. Where uncertainty exists as to the boundaries of zoning districts as shown on the Zoning Map, the following rules apply:

1. Boundaries shown as approximately following the centerlines of streets, highways, or alleys are construed to follow the centerlines.
2. Boundaries shown as approximately following platted lot lines are construed as following the lot lines.
3. Boundaries shown as approximately following city limits are construed as following city limits.
4. Boundaries shown following railroad lines are construed to be midway between the main tracks.
5. In unsubdivided property or where a zoning district boundary divides a parcel, the location of the boundary is determined by the use of the scale appearing on the Zoning Map.
6. In case further uncertainty exists, the Community Development Director shall determine the exact location of the boundaries. The Director's decision may be appealed to the Planning Commission to determine the exact location of the boundaries.

B. Parcels Containing Two or More Zoning Districts.

1. For parcels containing two or more zoning districts ("split zoning"), the location of the zoning district boundary shall be determined by the Community Development Director.
2. For parcels containing two or more zoning districts, the regulations for each zoning district shall apply within the zoning district boundaries as identified on the Zoning Map.

18.08.060 – Procedures for Interpretation/Determinations

A. Requests for Interpretation. The Community Development Director shall respond in writing to written requests for interpretation of the Zoning Code if the requested interpretation would substantially clarify an ambiguity which interferes with the effective administration of the Zoning Code. When the Director makes such a determination, the following procedures apply:

1. The request shall be in writing, shall identify the provision to be interpreted, and shall be accompanied by the fee identified in the latest Planning Fee Schedule.
2. The request shall provide any information that the Director requires to assist in its review.
3. The Director shall respond to an interpretation request within 30 days of receiving a complete request.

- B. Form and Content of Interpretation.** Official interpretations prepared by the Director shall be in writing, and shall quote the Zoning Code provisions being interpreted. The interpretation shall describe the circumstance that caused the need for the interpretation.
- C. Official Record of Interpretations.** An official record of interpretations shall be kept and updated regularly by the ~~Community Development~~ Development Services Department. The record of interpretations shall be indexed by the number of the section that is the subject of the interpretation and made available for public inspection during normal business hours.
- D. Referral to Planning Commission.** The Director may refer any request for interpretation of the Zoning Code to the Planning Commission for review and interpretation.
- E. Appeals.** Any official interpretation prepared by the Director may be appealed to the Planning Commission. The Planning Commission's interpretation may be appealed to the City Council.

– This Page Intentionally Left Blank –

Chapter 18.12 – RULES OF MEASUREMENT

Sections:

- 18.12.010 – Purpose
- 18.12.020 – Building Coverage
- 18.12.030 – Density
- 18.12.040 – Distances
- 18.12.050 – Floor Area and Floor Area Ratio
- 18.12.060 – Height
- 18.12.070 – Lot Area and Dimensions
- 18.12.080 – Setbacks
- 18.12.090 – Slope

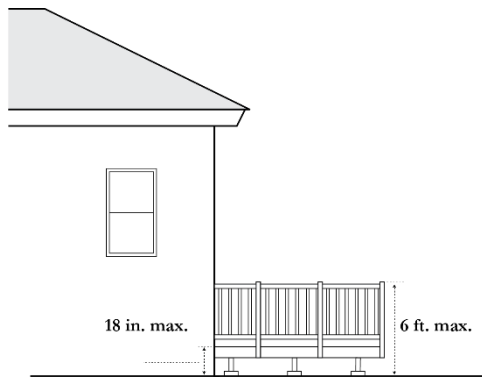
18.12.010 – Purpose

This chapter establishes rules for the measurement of standards contained in the Zoning Code.

18.12.020 – Building Coverage

► *Note: Subsection B (Excluded from Building Coverage) is new.*

- A. Building Coverage.** Building coverage means the total horizontal area of all buildings on a lot divided by the net lot area. Total horizontal building area is measured from the exterior surface of the exterior ground floor walls of all principal and accessory buildings on the lot.
- B. Building Coverage (Exclusions).** Building coverage does not include the following:
1. Unenclosed and unroofed decks, uncovered patio slab, porches, landings, balconies and stairways less than 18 inches in height at surface of deck (and less than 6 feet including railings). See Figure 18.12-1.
 2. Eaves and roof overhangs projecting less than 2 feet from a wall.
 3. Areas covered by a trellis or similar structure where at least 50 percent of the area is open to the sky with uniformly distributed openings.
 4. Swimming pools and hot tubs that are not enclosed in roofed structures or deck.

FIGURE 18.12-1: DECK EXCLUDED FROM BUILDING COVERAGE**18.12.030 –Density**

Density means the number of dwelling units divided by the net lot area.

18.12.040 – Distances

► *Note: This section is new.*

- A. Measurements Are Shortest Distance.** When measuring a required distance, such as the minimum distance between a structure and a lot line, the measurement is made at the closest or shortest distance between the two objects.
- B. Distances Are Measured Horizontally.** When measuring distances for setbacks and structure dimensions, all distances are measured along a horizontal plane from the appropriate line, edge of building, structure, storage area, parking area, or other object. Distances are not measured following the topography or slope of the land.
- C. Measurements Involving a Structure.** Measurements involving a structure are made to the closest support element of the structure. Structures or portions of structures that are entirely underground are not included in measuring required distances.
- D. Measuring Radius.** When a specified land use is required to be located a minimum distance from another land use, the minimum distance is measured in a straight line from all points along the lot line of the subject project, in all directions.

18.12.050 – Floor Area and Floor Area Ratio

► *Note: Changes to existing method for calculating floor area is noted below.*

A. Floor Area.

1. Floor area means the total enclosed area of all floors of a building measured from the outside face of the structural members in outside walls.
2. The floor area calculation includes the following:

- a. Covered parking areas for residential uses, including detached garages.
 - b. Staircases and elevator shafts at each floor level.
 - c. Service and mechanical equipment rooms [New].
 - ~~Attic areas with a height of more than 7 feet [New].~~
 - d. Areas with a solid roof even if open on the sides (e.g., covered porches, ~~and~~ patios, and California Rooms) [New].
 - e. For nonresidential uses, interior walkways or corridors, interior courtyards, walkways, paseos, or corridors covered by a roof or skylight. [New]
3. The floor area calculation does not include the following:
- a. Attic areas as defined in Section 18.128.020.A (“A” Terms).
 - ~~a.b.~~ Covered parking areas for non-residential uses [New].
 - ~~b.c.~~ Basement area as defined in Section 18.128.020.B (“B” Terms).
 - ~~e.d.~~ Areas covered by a trellis or similar structure where at least 50 percent of the area is open to the sky with uniformly distributed openings [New].
 - ~~d.e.~~ Windows or other architectural projections where the vertical distance between the lowest surface of the projection and the finished floor is 30 inches or more.
 - ~~e.f.~~ For nonresidential uses, arcades, porticoes, and similar open areas that are located at or near street level and are accessible to the general public but are not designed or used as sales, display, storage, service, or production areas.

B. Floor Area Ratio. Floor area ratio means the ratio of the total floor area of all buildings on a lot to the net lot area.

18.12.060 – Height

► *Note: Subsections B (Number of Stories) and D (Freestanding Structures) are new.*

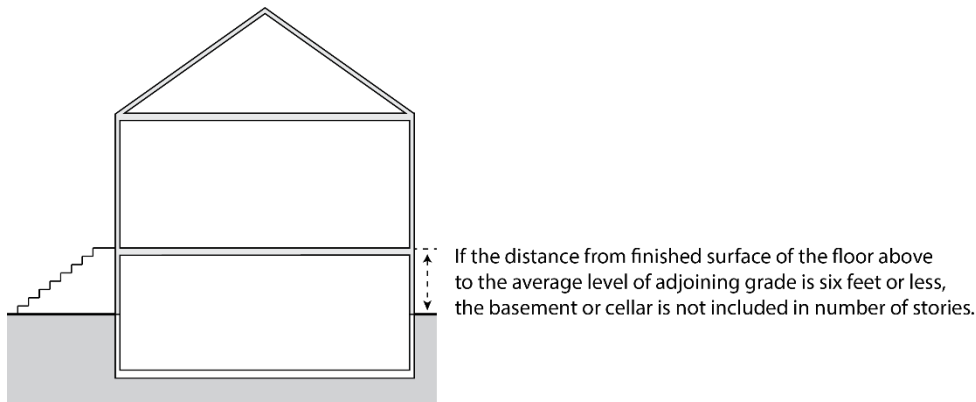
A. Building Height. Building height means the vertical distance from the average contact ground level at the front wall of the building to the highest point of the building. See Figure 18.12-2.

FIGURE 18.12-2: BUILDING HEIGHT



B. Number of Stories.

1. **Basements and Cellars.** A basement or cellar shall not be included in the calculation of number of stories of a building if the finished surface of the floor above is six feet or less below the average level of the adjoining grade. See Figure 18.12-3.

FIGURE 18.12-3 NUMBER OF STORIES – BASEMENT OR CELLAR HEIGHT

2. **Mezzanines.** A mezzanine shall not be included in the calculation of number of stories if:
 - a. The mezzanine floor area is one-third or less of the total area of the full floor directly below it; and
 - b. The mezzanine is open on at least two sides to the full floor below.

C. Fence or Wall Height.

1. Fence or wall height means the vertical distance from the bottom to the top of the fence or wall.
2. Fences placed on top of a retaining wall do not include the height of retaining wall.
3. If the adjacent finished grade is different on opposite sides of a fence or wall, the height is measured from the side with the lowest finished grade to the highest point on the fence or wall.

- D. Freestanding Structure Height.** For freestanding structures such as poles and towers, structure height means the vertical distance from the finished grade at the base of the structure to the highest point of the structure.

18.12.070 – Lot Area and Dimensions

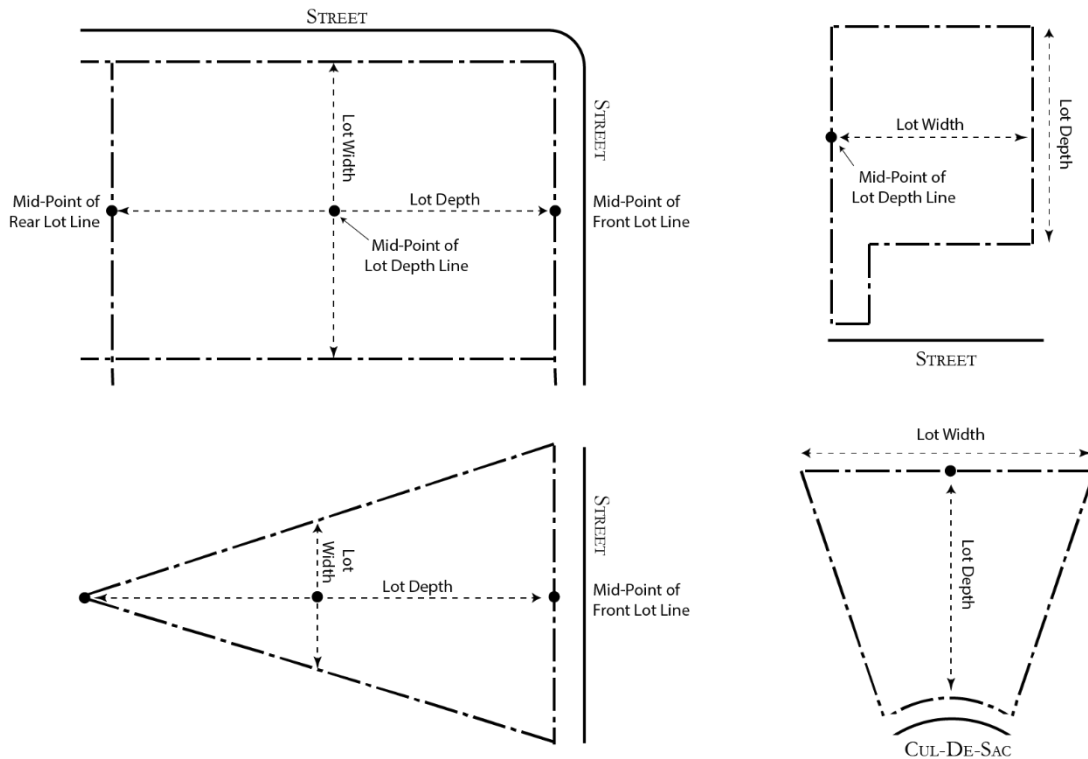
A. Lot Area. Lot area means the net site area of a lot, expressed in terms of acres or square feet. Lot area does not include:

1. Land within the limits of a street (public or private) upon which the lot abuts, even if fee title to such street is held by the owner.
2. All public easements (e.g., public streets, utility lines).
- 2.3. or All private easements (e.g., private streets, accessways) other than streets which are in excess of 15 percent of the net site area of the lot.

B. Lot Depth.

1. For lots other than flag lots, lot depth means the horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the most distant point on any other lot line where there is no rear lot line. See Figure 18.12-4.
2. For flag lots, lot depth is measured as the distance of the shortest side property line.

FIGURE 18.12-4: LOT DEPTH AND WIDTH



C. Lot Width.

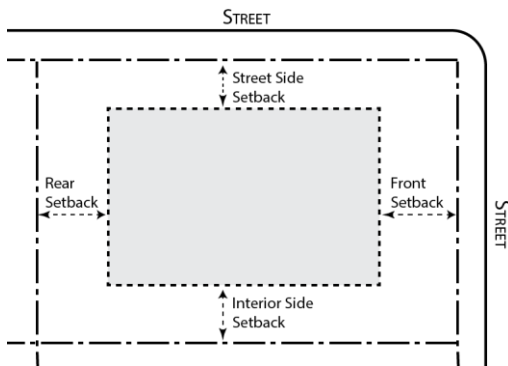
1. For lots other than cul-de-sac lots, lot width means the distance measured along a straight line between the midpoints of the side property lines.
2. For flag lots, the measurement of the midpoint of the side property lines excludes the narrow corridor providing access to the street.
3. For cul-de-sac lots, lot width is measured at the rear property line.

18.12.080 – Setbacks

► *Note: This section is new.*

A. Measure at Right Angles. The distance/depth of a setback area (i.e., front, side, or rear) shall be measured at right angles from the nearest property line establishing a setback area line parallel to that lot line. See Figure 18.12-4.

FIGURE 18.12-4: SETBACKS



B. Planned Street Widening. Where a lot abuts a street designated for a future widening, required minimum setbacks shall be measured from the edge of the planned future right-of-way.

C. Future Street Right-of-Way. Where a future street right-of-way is planned or established, required minimum setbacks shall be measured from property lines that define the edge of the future right-of-way.

D. Alleys.

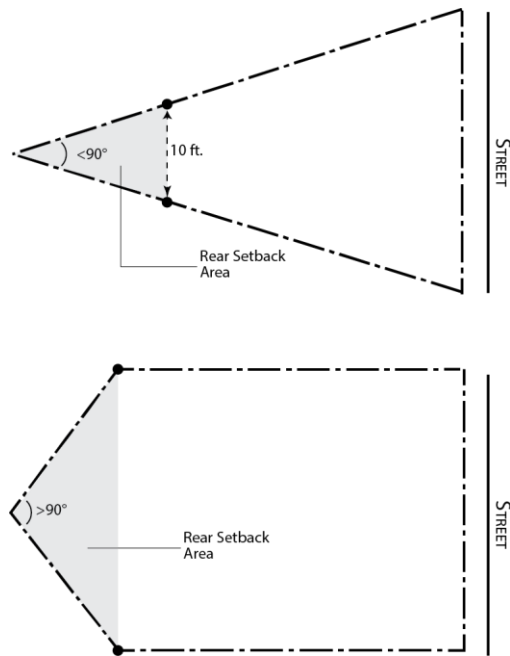
1. If side lot line abuts an alley, the lot line shall be treated as interior side lot line for the purpose of establishing minimum required setbacks.
2. The width of an adjoining alley is not included in the measurement of a required setback.

E. Rear Lot Lines.

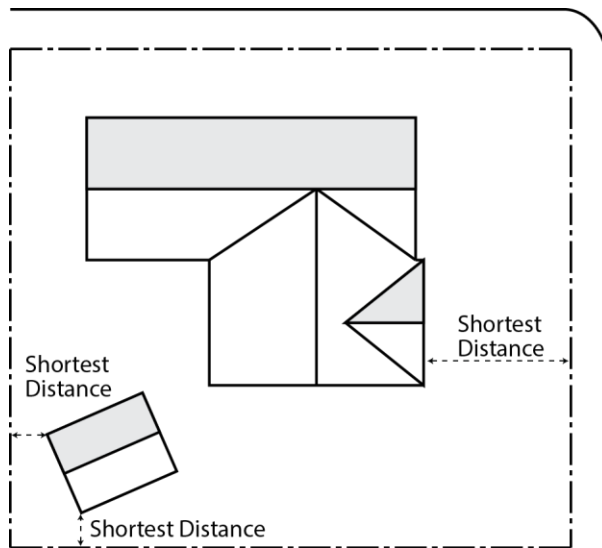
1. **Irregularly Shaped Lots.** Where the side lot lines converge to a point at the rear of the lot and make an angle 90 degrees or less, a line 10 feet long within the lot,

parallel to and at a maximum distance from the front lot line, shall be deemed to be the rear lot line for the purpose of determining the depth of the required rear setback area. Where the angle created by the convergence of two side lot lines at the rear of the lot is greater than 90 degrees, a line 10 feet long measured from the point of convergence and perpendicular to the front lot line shall establish the location of the required rear setback line. See Figure 18.12-4

FIGURE 18.12-4: REAR LOT LINES FOR IRREGULARLY SHAPED LOTS



2. **Double-Frontage Lots.** The location of the front and rear yard setbacks on double-frontage lots shall be determined by the Community Development Director based on the placement of existing buildings on adjacent lots.
- F. Measuring Structure Distance from Lot Lines.** The distance of a structure from a lot line shall be measured as the distance between the lot line and the closest point on the exterior of a building or structure along a line at right angles to the lot line. See Figure 18.12-5.

FIGURE 18.12-5: MEASURING STRUCTURE DISTANCE FROM LOT LINES**18.12.090 – Slope**

- A. Formula.** Average ground slope shall be made using the formula $S = .00229(I)(L)/A$, where:
1. S = Average slope (in percent)
 2. I = Contour interval (in feet)
 3. L = Total length of all contour lines on the parcel (in feet)
 4. A = Lot area (in acres)
- B. Contour Intervals.** Measurements along contours shall be made at contour intervals not to exceed 10 feet, and a horizontal map scale of 1 inch equals 200 feet or larger

Chapter 18.14 – ZONING DISTRICTS AND MAP

Sections:

18.14.010 – Purpose

18.14.020– Zoning Districts

18.14.030– Zoning Map

18.14.010 – Purpose

This chapter identifies the zoning districts that apply to land within the Morgan Hill city limits and establishes the official Morgan Hill Zoning Map.

18.14.020 – Zoning Districts

► *Note: The names of residential zoning districts have been changed to better reflect their intent and match the General Plan designation names. The existing CBD zoning district is changed to MU-D and the existing CC-R is changed to MU-N. MU-F is a new zoning district. Existing Theme Unit Development and Administrative Office zoning districts are eliminated. The existing Seismic overlay zone is changed to the Active Fault Surface Rupture overlay zone and the Downtown Specific Plan overlay zone is new. The existing Geologic overlay zone is treated as a citywide standard rather than an overlay zone as the boundaries where requirements apply are not shown on the zoning map. The Commercial Use (CU) overlay, which only applied to the western half of the Morgan Hill Plaza shopping center, is removed.*

A. Base Zoning Districts. Morgan Hill is divided into zoning districts that implement the General Plan Land Use Map as shown in Table 18.14-1.

TABLE 18.14-1: BASE ZONING DISTRICTS

Zoning District Symbol	Name of Zoning District	General Plan Designation
Residential Zoning Districts		
RE 10	Residential Estate (10 acre lots)	Residential Estate
RE 400,000 <u>2.5</u>	Residential Estate (2.5 acre <u>400,000 sq. ft.</u> lots)	
RE 1	Residential Estate (1 acre lots)	
RDL 20,000	Residential Detached Low Density (20,000 sq. ft. lots)	Residential Detached Low
RDL 12,000	Residential Detached Low Density (12,000 sq. ft. lots)	
RDM 9,000	Residential Detached Medium Density (9,000 sq. ft. lots)	Residential Detached Medium

Zoning District Symbol	Name of Zoning District	General Plan Designation
Residential Zoning Districts		
RDM 7,000	Residential Detached Medium Density (7,000 sq. ft. lots)	
RDH 4,500	Residential Detached High Density (4,500 sq. ft. lots)	Residential Detached High
RAL 3,500	Residential Attached Low Density (3,500 sq. ft. per unit)	Residential Attached Low
RAL 3,000	Residential Attached Low Density (3,000 sq. ft. per unit)	
RAM	Residential Attached Medium Density (2,000 sq. ft. per unit)	Residential Attached Medium
RAH	Residential Attached High Density (1,100 sq. ft. per unit)	Residential Downtown
Mixed Use Zoning Districts		
MU-D	Downtown Mixed Use	Downtown Mixed Use
MU-N	Neighborhood Mixed Use	
MU-F	Mixed Use Flex	Mixed Use Flex
Commercial Zoning Districts		
CN	Neighborhood Commercial	Commercial General Commercial
CG	General Commercial	
CH	Highway Commercial	
CS	Service Commercial	
Industrial Zoning Districts		
CIH	Commercial Industrial <u>Light Industrial</u>	Industrial and Commercial/Industrial
IOIG	Office Industrial <u>General Industrial</u>	
IC	Campus Industrial	
IIIO	Office Industrial <u>Light Industrial</u>	
IGCI	Commercial Industrial <u>General Industrial</u>	
Public, Open Space, and Recreational Zoning Districts		
OS	Open Space	Open Space
PF	Public Facilities	Public Facilities
SRL	Sports Recreation Leisure (A & B)	Sports Recreation Leisure

- B. Overlay Zones and Combining Districts.** The Zoning Code and Zoning Map include the overlay zones and combining districts shown in Table 18.14-2. Overlay zones and combining districts impose additional regulations on properties beyond what is required by the underlying base zoning district.

TABLE 18.14-2: OVERLAY ZONES

Overlay Zone Symbol	Name of Overlay Zone or Combining District
AFSR	Active Fault Surface Rupture Combining District
DGF	Downtown Ground Floor Overlay Zone
DTSP	Downtown Specific Plan Overlay Zone
H	Hillside Combining District
PD	Planned Development Combining District

C. Legacy Zones.

1. A legacy zone is base zoning district, overlay zone, or combining district which was applied to a property prior to [effective date of Zoning Ordinance], remains the zoning in effect for the property, but which may not be applied to any additional properties as of [effective date of Zoning Ordinance]. All rules and regulations of the legacy zone, and any subsequent amendments thereto, continue to apply to the subject property.
2. The Zoning Map shows the following ~~two~~ three legacy zones:
 - a. Residential Planned Development (RPD) overlay district.
 - b. Planned Unit Development (PUD) base zoning district.
 - b.c. Conditional (C) base zoning district.
3. Where a legacy zone is shown on the Zoning Map, the requirements of that legacy zone as originally applied to a property ~~shall~~ remain in full force and effect.
- 3-4. Permitted land uses, development standards, and other provisions that apply within a legacy zone may be amended in accordance with Chapter 18.114 (Zoning Code Amendments).

18.14.030 – Zoning Map

- A. Adoption.** The City Council hereby adopts the Morgan Hill Zoning Map (“Zoning Map”), which establishes the boundaries of all base zoning districts and overlay zones provided for in the Zoning Map.
- B. Incorporation by Reference.** The Zoning Map, including all legends, symbols, notations, references, and other information shown on the map, is incorporated by reference and made a part of the Zoning Code.
- C. Location.** The Zoning Map is kept, maintained, and updated electronically by the ~~Community Development~~Development Services Department, and is available for viewing by the public at the Department and on the official Morgan Hill City website.

PART 2

Zoning Districts

Chapter 18.16 – Residential Detached Zoning Districts..... 16-1

- 18.16.010 – Purpose of the Residential Detached Zoning Districts
- 18.16.020 – Land Use Regulations
- 18.16.030 – Development Standards

Chapter 18.18 – Residential Attached Zoning Districts..... 18-1

- 18.18.010 – Purpose of the Residential Attached Districts
- 18.18.020 – Land Use Regulations
- 18.18.030 – Development Standards

Chapter 18.22 – Mixed Use Zoning Districts.....22-1

- 18.22.010 – Purpose of the Mixed Use Zoning Districts
- 18.22.020 – Land Use Regulations
- 18.22.030 – Mixed Use in the MU-F Zoning District
- 18.22.040 – Development Standards

Chapter 18.24 – Commercial Zoning Districts..... 24-1

- 18.24.010 – Purpose of the Commercial Zoning Districts
- 18.24.020 – Land Use Regulations
- 18.24.030 – Development Standards

Chapter 18.26 – Industrial Zoning Districts..... 26-1

- 18.26.010 – Purpose of the Industrial Zoning Districts
- 18.26.020 – Land Use Regulations
- 18.26.030 – Development Standards

Chapter 18.28 – Open Space, Public, and Recreation Zoning Districts..... 28-1

- 18.28.010 – Purpose of the Open Space, Public, and Recreation Zoning Districts
- 18.28.020 – Land Use Regulations
- 18.28.030 – Development Standards

Chapter 18.30 – Overlay Zones and Combining Districts..... 30-1

- 18.30.010 – Purpose of Overlay Zones and Combining Districts
- 18.30.020 – Downtown Ground Floor Overlay Zone

- 18.30.030 – Downtown Specific Plan Overlay Zone
- 18.30.040 – Hillside Combining District
- 18.30.050 – Planned Development Combining District
- 18.30.060 – Active Fault Surface Rupture Combining District

Chapter 18.16 – RESIDENTIAL DETACHED ZONING DISTRICTS

Sections:

18.16.010 – Purpose of the Residential Detached Zoning Districts

18.16.020 – Land Use Regulations

18.16.030 – Development Standards

18.16.010– Purpose of the Residential Detached Zoning Districts

► *Note: The names of existing zoning districts are changed as follows: R-1 Single-Family Low Density becomes Residential Detached Low Density (RDL), R-1 Single-Family Medium Density becomes Residential Detached Medium Density (RDM), and R-1 Single-Family High Density becomes Residential Detached High Density (RDH).*

A. General. The purpose of the residential detached zoning districts is to support attractive, safe, and friendly single-family residential neighborhoods consistent with Morgan Hill's unique small-town feel. Development within the residential detached zoning districts features high quality design that enhances the visual character of the community. The mass, scale, and design of new homes support pleasant and walkable neighborhoods that complement Morgan Hill's existing community character.

B. Specific.

1. **Residential Estate (RE).** The purpose of the RE zoning district is to provide locations for detached single-family homes on large lots in a semi-rural setting. The RE zoning district is divided into three subzones allowing for a range of permitted residential densities.
2. **Residential Detached Low Density (RDL).** The purpose of the RDL zoning district is to provide locations for detached single-family homes in low-density single-family neighborhoods. The RDL zoning district is divided into two subzones allowing for a range of permitted residential densities.
3. **Residential Detached Medium Density (RDM).** The purpose of the RDM zoning district is to provide locations for detached single-family homes and a limited number of duet units in medium-density single-family neighborhoods. The RDM zoning district is divided into two subzones allowing for a range of permitted residential densities.
4. **Residential Detached High Density (RDH).** The purpose of the RDH zoning district is to provide locations for detached single-family homes on small lots and a limited number of duet units in high-density single-family neighborhoods.

18.16.020– Land Use Regulations

► *Note: The following changes are made to the RDH zoning district: deleted single-family attached as a permitted use; deleted parking lots adjacent to commercial districts as a conditionally permitted use.*

A. Permitted Land Uses. Table 18.16-1 identifies land uses permitted in the residential districts.

TABLE 18.16-1: PERMITTED LAND USES – RESIDENTIAL DETACHED ZONING DISTRICTS

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required – Use not allowed	Zoning District				Additional Regulations
	RE	RDL	RDM	RDH	
Residential Uses					
Accessory Dwelling Units	P	P	P	P	Chapter 18.84
Duets	-	-	P [1,2]	P [2]	
Residential Care Facilities, Small	P	P	P	P	
Single-Family Detached Dwellings	P	P	P	P	
Public and Quasi-Public Uses					
Community Assembly	C	C	C	C	
Cultural Institutions	C	C	C	C	
Day Care Centers	C	C	C	C	
Home Day Care, Large and Small	P	P	P	P	
Parks and Recreational Facilities [5]	C	C	C	C	
Public Safety Facilities	C	C	C	C	
Schools, Public and Private	C	C	C	C	
Transportation, Communication, and Utility Uses					
Wireless Communications Facilities	See Chapter 18.96				
Agriculture and Natural Resource Uses					
Crop Cultivation	P [3,4]	-	-	-	
Other Uses					
Accessory Uses	See Chapter 18.44				
Home Occupations	See Section 18.92.060				
Temporary Uses	See Section 18.92.440 150				
<u>Urban Agriculture</u>					
<u>Home Gardens</u>	P	P	P	P	
<u>Community Gardens</u>	A	A	A	A	
<u>Urban Farms</u>	C	C	C	C	

Notes:

[1] Permitted on corner lots only.

[2] Limited to no more than 25 percent of total dwelling units within a single project or subdivision, excluding two-lot subdivisions.

[3] Mushroom farms are prohibited.

[4] On-site sale of products is prohibited.

[5] Park and recreational facilities accessory to a residential use (e.g., a clubhouse serving a residential subdivision) are permitted by right.

B. Additional Permits. In addition to permits identified in Table 18.16-1, proposed projects in the detached residential zoning districts may also require a Design Permit pursuant to Section 18.108.040 (Design Permits). Modifications to a historic resource may require a Historic Alteration pursuant to Chapter 18.60 (Historic Resources).

C. Residential Building Allotments. All residential development must comply with the voter-approved Residential Development Control System (RDACS) as established in Chapter 18.78 (Residential Development Control System). The RDACS requires proposed residential projects to first receive residential building allotments before applying for land use entitlements. Section 18.78.050.C (Exemptions from Allotments) identifies types of residential projects exempt from the requirement to obtain residential building allotments.

18.16.030– Development Standards

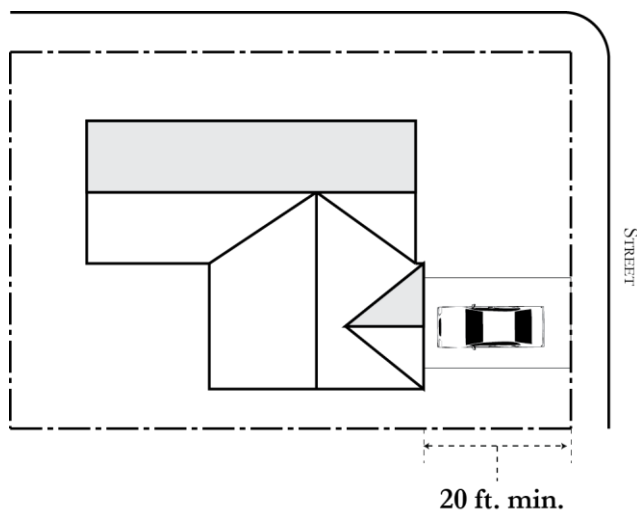
► *Note: In all residential detached zoning districts, reference to number of stories in structure height is eliminated, street side setback eliminates reference to minimum front yard setback. Upper story side interior setback standard is modified in RDL-12,000 and RDM-9,000. ~~Subsection B (Residential Design Criteria) is new.~~*

A. General. Tables 18.16-2, 18.16-3, and 18.16-4 identify development standards in the residential detached zoning districts.

~~**B. Residential Design Criteria.** All residential development in the detached residential zoning districts requiring a Design Permit shall comply with the design criteria in Chapter 18.36 (Residential Design Criteria).~~

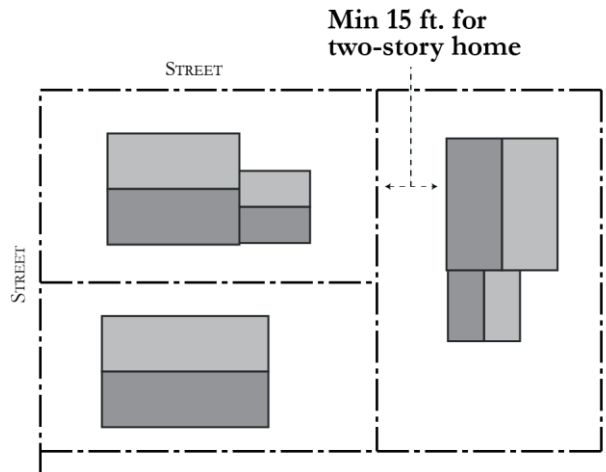
~~**C.B. Garage and Carport Setbacks.**~~ The entrance of a garage or carport shall be setback a minimum of 20 feet from the edge of a sidewalk or public right-of-way, whichever is closer. See Figure 18.16-1.

FIGURE 18.16-1: GARAGE SETBACKS



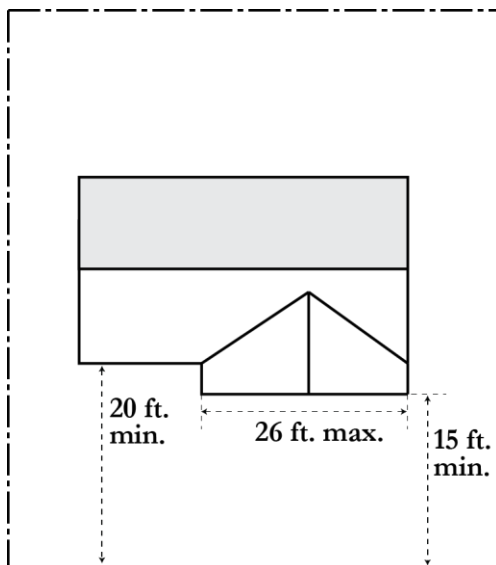
D.C. Reverse Corner Lots – RDM and RDH Zoning Districts. In the RDM and RDH zoning districts, a 15-foot minimum side yard setback is required when the side yard of a two-story residence is adjacent to a rear yard on an adjoining lot. See Figure 18.16-2.

FIGURE 18.16-2: REVERSE CORNER LOTS – RDM ZONING DISTRICT



E.D. Reduced Front Setbacks – RDM Zoning District. ~~The Minimum~~ front setbacks in the RDM zoning district ~~is may be reduced from 20 feet to~~ 15 feet for up to a 26-foot wide portion of the front elevation of a home. See Figure 18.16-3.

FIGURE 18.16-3: REDUCED FRONT SETBACK – RDM ZONING DISTRICT



F.E. Cul-De-Sac Lot Width. In all detached residential zoning districts, the minimum width of a cul-de-sac lot is 40 feet as measured along the radius of the front property line.

G.F. Arterial Roadway Setbacks. The following setback requirements apply to residential development adjacent an arterial roadway, as identified in the General Plan.

1. The minimum front yard setback for residential development fronting an arterial roadway is 30 feet.
2. All residential development with rear or side yard setback areas adjacent to an arterial street shall provide a minimum fence/wall setback of 15 feet with an average of 20 feet from the face of the curb.

H.G. Freeway Setbacks. The minimum setback for residential development adjacent to the freeway is 60 feet. Accessory structures and ancillary uses, excluding guest houses or other habitable living space, may be located within the 60-foot setback area.

TABLE 18.16-2: RESIDENTIAL ESTATE (RE) DISTRICT DEVELOPMENT STANDARDS

	Residential Estate Subzones			Additional Standards
	RE-10	RE- 2.5 100,000	RE-1	
Site Requirements				
Lot Area, Minimum	10 acres	400,000 sq. ft. <u>2.5 acres</u>	1 acre	
Lot Width, Minimum	200 ft.	150 ft.	100 ft.	18.16.030.F
Lot Depth, Minimum	200 ft.	150 ft.	100 ft.	
Building Coverage, Maximum	15%	25%	30%	
Structure Requirements				
Setbacks, Minimum				18.56.030, 050 & 060
Front	50 ft.	50 ft.	25 ft.	18.16.030.C & G
Rear	50 ft.	25 ft.	25 ft.	
Interior Side	50 ft.	25 ft.	20 ft.	
Street Side	25 ft.	15 ft.	15 ft.	
Height, Maximum	30 ft.			18.56.020

TABLE 18.16-3: RESIDENTIAL DETACHED LOW AND MEDIUM DENSITY DISTRICT DEVELOPMENT STANDARDS

	RDL-20,000	RDL-12,000	RDM-9,000	RDM-7,000	Additional Standards
Site Requirements					
Lot Area, Minimum					
Single-Family Lot or Corner Duplex	20,000 sq. ft.	12,000 sq. ft.	9,000 sq. ft.	7,000 sq. ft.; 7,500 sq. ft. for corner lots	
Corner Duet Lot [1]			4,200 sq. ft.	3,500 sq. ft.	
Lot Width, Minimum					18.16.030.F
Single-Family Lot	100 ft.	75 ft.	70 ft.	60 ft.	
Corner Duet Lot			40 ft.	40 ft.	
Lot Depth, Minimum	100 ft.	100 ft.	85 ft.	85 ft.	
Building Coverage, Maximum	40%	40%	50%	50%	
Structure Requirements					
Setbacks, Minimum					18.56.030, 050 & 060
Front	25 ft.	25 ft.	<u>First Story:</u> 20 ft. <u>Upper Stories:</u> 25 ft.	<u>First Story:</u> 20 ft. <u>Upper Stories:</u> 25 ft.	18.16.030.C, E & G
Rear	25 ft.	25 ft.	<u>First Story:</u> 20 ft. <u>Upper Stories:</u> 25 ft.	<u>First Story:</u> 20 ft. <u>Upper Stories:</u> 25 ft.	
Interior Side	15 ft.	<u>First Story:</u> 10 ft. <u>Upper Stories:</u> 15 ft.	<u>First Story:</u> 5 ft. <u>Upper Stories:</u> 12.5 ft.	<u>First Story:</u> 5 ft. <u>Upper Stories:</u> 12.5 ft.	18.16.030.D
Street Side	15 ft.	15 ft.	15 ft.	15 ft.	
Height, Maximum	30 ft.	30 ft.	30 ft.	30 ft.	18.56.020

Notes:

[1] The combined lot area of two adjacent duet lots may be no less than the minimum lot area required for single-family detached dwellings.

TABLE 18.16-4: RESIDENTIAL DETACHED HIGH DENSITY DISTRICT DEVELOPMENT STANDARDS

	RDH-4,500	Additional Standards
Site Requirements		
Lot Area, Minimum		
Single-family detached lots	4,500 sq. ft.	
Corner single-family detached lots	5,000 sq. ft.	
Duet lots	3,500 sq. ft.	
Lot Width, Minimum		18.16.030.F
Lots less than 5,000 sq. ft.	40 ft.	
Lots 5,000 sq. ft. or greater	50 ft.	
Lot Depth, Minimum	85 ft.	
Floor Area Ratio, Maximum	52%	
Structure Requirements		
Setbacks, Minimum		18.56.030, 050 & 060
Front	<u>First story:</u> 15 ft. <u>Upper stories:</u> 20 ft.	18.16.030.C & G
Rear	15 ft.	
Interior Side	<u>First story:</u> 10% of lot width <u>Upper stories:</u> 15% of lot width	
Street Side	24 5 ft.	
Height, Maximum	35 ft.	18.56.020

– This Page is Intentionally Blank –

Chapter 18.18 – RESIDENTIAL ATTACHED ZONING DISTRICTS

Sections:

18.18.010 – Purpose of the Residential Attached Districts

18.18.020 – Land Use Regulations

18.18.030 – Development Standards

18.18.010– Purpose of the Residential Attached Districts

- *Note: The names of existing zoning districts are changed as follows: R-2 Medium Density becomes Residential Attached Low Density (RAL), R-3 Medium Density becomes Residential Attached Medium Density (RAM), and R-4 High Density becomes Residential Attached High Density (RAH).*
-

A. General. The purpose of the residential attached zoning districts is to provide locations for attached housing types to meet the full range of housing needs in Morgan Hill. The residential attached zoning districts accommodate small lot single-family homes, townhomes, and multi-family dwellings at a range of densities. The residential attached zoning district increases housing options for seniors, young people, renters, and smaller households. Housing in the residential attached zoning district is carefully integrated with surrounding development, supports the economic vitality of nearby commercial areas, and increases opportunities for residents to walk or bike to destinations.

B. Specific.

1. **Residential Attached Low Density (RAL).** The purpose of the RAL zoning district is to provide locations for low density attached housing types. The RAL zoning district is divided into two subzones allowing for a range of permitted residential densities.
2. **Residential Attached Medium Density (RAM).** The purpose of the RAM zoning district is to provide locations for medium density attached housing types—.
3. **Residential Attached High Density (RAH).** The purpose of the RAH zoning district is to provide locations for high density attached housing types typically within and adjacent to Downtown Morgan Hill.

18.18.020– Land Use Regulations

- *Note: The following changes are made to all residential attached zoning districts: removes hospitals, medical clinics, and parking areas as conditionally permitted uses; allows secondary dwelling unit on lots with one detached single-family home; calls out senior housing, independent living as a permitted use.*
-

A. Permitted Land Uses. Table 18.18-1 identifies land uses permitted in the residential attached zoning districts.

TABLE 18.18-1: PERMITTED LAND USES – RESIDENTIAL ATTACHED ZONING DISTRICTS

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required – Use not allowed	Zoning District			Additional Regulations
	RAL	RAM	RAH	
Residential Uses				
Accessory Dwelling Units	P [2]	P [2]	P [2]	Chapter 18.84
Duets and Duplexes	P	P	P	
Group Housing	C [1]	C	C	
Multi-Family Dwellings	P	P	P	
Nursing Homes and Long-Term Care	C	C	C	
Residential Care Facilities	C	C	C	
Residential Care Facilities, Small	P	P	P	
Single-Family Attached Dwellings	P	P	P	
Single-Family Detached Dwellings	P [3, 4]	P [4]	P [4]	
Public and Quasi-Public Uses				
Community Assembly	C	C	C	
Cultural Institutions	C	C	C	
Day Care Centers	C	C	C	
Home Day Care, Large and Small	P	P	P	
Parks and Recreational Facilities [5]	C	C	C	
Public Safety Facilities	C	C	C	
Schools, Public and Private	C	C	C	
Transportation, Communication, and Utility Uses				
Wireless Communication Facilities	See Chapter 18.96			
Other Uses				
Accessory Uses and Structures	See Chapter 18.44			
Home Occupations	See Section 18.92.060			
Temporary Uses and Structures	See Section 18.92.440 150			
<u>Urban Agriculture</u>				
<u>Home Gardens</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Community Gardens</u>	<u>A</u>	<u>A</u>	<u>A</u>	
<u>Urban Farms</u>	<u>C</u>	<u>C</u>	<u>C</u>	

Notes:

[1] Limited to no more than eight residents.

[2] Permitted only on lots occupied by one existing or proposed detached single-family home.

[3] Up to 25 percent of homes within a development project may be small-lot single family homes with a maximum lot area of 3,500 square feet.

[4] Permitted only on a lot of record existing prior to [the effective date of Zoning Ordinance].

[5] Park and recreational facilities accessory to a residential use (e.g., a clubhouse serving a residential subdivision) are permitted by right.

- B. Additional Permits.** In addition to permits identified in Table 18.18-1, development projects in the attached residential zoning districts may also require a Design Permit pursuant to Section 18.108.040 (Design Permits). Modifications to a historic resource may require a Historic Alteration pursuant to Chapter 18.60 (Historic Preservation).
- C. Residential Building Allotments.** All residential development must comply with the voter-approved Residential Development Control System (RDACS) as established in Chapter 18.78 (Residential Development Control System). The RDACS requires proposed residential projects to first receive residential building allotments before applying for land use entitlements. Section 18.78.050.C (Exemptions from Allotments) identifies types of residential projects exempt from the requirement to obtain residential building allotments.

18.18.030– Development Standards

► *Note: Subsection B (Alternative Standards for RAL and RAM Zoning Districts) treats recently adopted standards for small lot single-family homes, townhomes, courtyard homes, and other similar medium-density housing types as an alternative to this chapter, not mandatory. ~~Subsection C (Residential Design Criteria) is new.~~*

- A. General.** Tables 18.18-2 and 18.18-3 identifies development standards in the residential attached zoning districts.
- B. Alternative Standards for RAL and RAM Zoning Districts.** Proposed development in the RAL and RAM zoning districts may utilize alternative development standards in Chapter 18.40 (Alternative Standards for Medium Density Residential Development). These standards apply to small lot single-family homes, townhomes, courtyard homes, and other housing types appropriate for a low- and medium-density residential setting.
- ~~**C. Residential Design Criteria.** All residential development requiring a Design Permit shall comply with the design criteria established in Chapter 18.36 (Residential Design Criteria).~~
- ~~**D.C. Cul-De-Sac Lot Width.**~~ The minimum width of a cul-de-sac lot is 40 feet as measured along the radius of the front property line.
- ~~**E.D. Arterial Roadway Setbacks.**~~ The following setback requirements apply to residential development adjacent an arterial roadway, as identified in the General Plan.
1. The minimum front yard setback for residential development fronting an arterial roadway is 30 feet.
 2. All residential development with rear or side yard setback areas adjacent to an arterial street shall provide a minimum fence/wall setback of 15 feet with an average of 20 feet from the face of the curb.

TABLE 18.18-2: RESIDENTIAL ATTACHED LOW DENSITY DEVELOPMENT STANDARDS

	Residential Attached Low Density Subzones		
	RAL-3,500	RAL-3,000	Additional Standards
Site Requirements			
Lot Area, Minimum			
Duplex lots	7,000 sq. ft.	6,000 sq. ft.	
Duplex corner lots	7,500 sq. ft.	6,500 sq. ft.	
Duet lots	3,500 sq. ft.	3,000 sq. ft.	
Duet corner lots	3,750 sq. ft.	3,250 sq. ft.	
Multi-family and other uses	3,500 sq. ft.	3,000 sq. ft.	
Lot Width, Minimum			18.18.030.D
Duplex lots	70 ft.	70 ft.	
Duplex corner lots	80 ft.	80 ft.	
Duet and single-family attached lots	30 ft.	30 ft.	
Duet and single-family attached corner lots	40 ft.	40 ft.	
Other uses <u>allowed in Table 18.18-1</u>	50 ft. or as determined through the Conditional Use Permit		
Lot Depth, Minimum	85 ft.	85 ft.	
Building Coverage, Maximum	50%	50%	
Site Area per Dwelling Unit, minimum	3,500 sq. ft.	3,000 sq. ft.	
Structure Requirements			
Setbacks, Minimum			18.56.030, 050 & 060
Front	20 ft.	20 ft.	18.18.030.E
Rear	15 ft. is <u>or</u> 20 ft. for two-story, located adjacent to a single-family district	15 ft. is <u>or</u> 20 ft. for two-story, located adjacent to a single-family district	
Interior Side	5 ft.	5 ft.	
Street Side	15 ft.	15 ft.	
Height, Maximum	30 ft.	30 ft.	18.56.020

TABLE 18.18-3: RESIDENTIAL ATTACHED MEDIUM DENSITY AND HIGH DENSITY DEVELOPMENT STANDARDS

	RAM	RAH	Additional Standards
Site Requirements			
Lot Area, Minimum	6,000 sq. ft.; 4,500 sq. ft. for corner lots	6,000 sq. ft.; 6,500 sq. ft. for corner lots	
Lot Width, Minimum	60 ft.	40 ft.	18.18.030.D
Lot Depth, Minimum	85 ft.	75 ft.	
Building Coverage, Maximum	60%	60%	
Site Area per Dwelling Unit, Minimum	2,000 sq. ft.	1,100 sq. ft.	
Structure Requirements			
Setbacks, Minimum			18.56.030, 050 & 060
Front	15	15	18.18.030.E
Rear	20	15	
Interior Side	5	5	
Street Side	15	15	
Height, Maximum	<u>3 stories or 40 ft., whichever is less; min. 10 ft. for roof element on 3 story structure</u> 40 ft.	3 stories or 40 ft., whichever is less; min. 10 ft. for roof element on 3 story structure	18.56.020

~~F-E.~~ Freeway Setbacks. The minimum setback for residential development adjacent to the freeway is 60 feet. Accessory uses and buildings may be located within the 60-foot setback area.

– This Page is Intentionally Blank –

Chapter 18.22 – MIXED USE ZONING DISTRICTS

Sections:

18.22.010 – Purpose of the Mixed Use Zoning Districts

18.22.020 – Land Use Regulations

18.22.030 – Mixed Use in the MU-F Zoning District

18.22.040 – Development Standards

18.22.010 – Purpose of the Mixed Use Zoning Districts

- *Note: The names of existing zoning districts are changed as follows: Central Business District (CBD) becomes Downtown Mixed Use (MU-D), Central Commercial/Residential becomes Neighborhood Mixed Use (MU-N), and Mixed Use Flex (MU-F) is a new zoning district to replace the existing Light Commercial/Residential (CL-R) zoning district.*
-

A. General. The purpose of the mixed use zoning districts is to provide for active and inviting destinations in Morgan Hill with a diversity of residential and commercial land uses. In the mixed use zoning districts the design of development supports a welcoming, pedestrian-friendly public realm ~~with inviting residences and storefronts facing the sidewalk~~. A diversity of local and independent businesses, recreational amenities, and public spaces meet the needs of residents, workers, and visitors. New development respects Morgan Hill's history and reflects its unique small-town feel. The diversity of land uses, pedestrian-friendly development, and general level of activity in the mixed use zoning districts supports a range of transportation choices, including walking, biking, and transit.

B. Specific.

1. **Downtown Mixed Use (MU-D).** The purpose of the Downtown Mixed Use (MU-D) zoning district is to preserve and enhance Downtown as the heart of Morgan Hill and the center of the community. New development supports a walkable Downtown district with active storefronts and a diversity of commercial, residential, and public uses. The intensity of residential uses enhances economic vitality, increases housing options for residents of all ages, and support a vibrant and diverse destination for residents and visitors. The MU-D zoning district implements the community's vision for Downtown Morgan Hill as described in the Downtown Specific Plan.
2. **Neighborhood Mixed Use (MU-N).** The purpose of the Neighborhood Mixed Use (MU-N) zoning district accommodates a range of residential and commercial land uses in close proximity to Downtown and other activity centers. A range of housing types provide residents with affordable housing options and increase opportunities to live close to stores, services, jobs, and transit. The MU-N zoning

district provides a transition from the higher intensity uses in the Downtown Core to lower density residential neighborhoods.

3. **Mixed Use Flex (MU-F).** The purpose of the MU-F zoning district is to accommodate a mixture of residential and commercial uses typically along the Monterey Road corridor north and south of Downtown. New mixed use development may be vertical (residences above ground floor commercial) or horizontal (separate buildings with different uses on a single site). Development in the MU-F zoning district creates attractive gateways into Morgan Hill, provides a range of housing options, and creates new centers of activity to serve surrounding neighborhoods.

18.22.020 – Land Use Regulations

► *Note: The following changes have been made to existing Mixed Use zoning district land use regulations:*

~~*MU-D (formerly CBD): allow nursing home with CUP, allow residential care with CUP (state law), allow group housing with CUP, require CUP for hospitals, allow veterinarian hospitals with CUP, allow secondary dwelling units on lots with a detached single family dwelling, specifically allow senior housing (independent and assisted living) with CUP, eliminate CUP for bar ancillary to restaurant; require CUP for parking lots and structures as primary use, allow wine tasting with CUP, allow farmers market with AUP, require CUP for business and trade schools (excludes tutoring), require CUP for parking when proposed as primary use.*~~

MU-N (formerly CC-R Central Commercial Residential): allow group housing with CUP, allow live/work with AUP, allow secondary dwelling unit on lots with a detached single-family dwelling, allow veterinarian hospitals with CUP; remove obsolete retail restriction on First, Second, Third, and Fourth Streets; require CUP for business and trade schools (excludes tutoring), allow wine tasting with CUP, require CUP for hospitals, allow bed and breakfast with CUP, require CUP for cinemas and theatres, allow farmers market with AUP, eliminate 18.24.080.C to allow for clustering of detached homes as a mf housing type, eliminate 18.24.080.D & E, eliminate 18.24.120.A to standardize design permit requirements with rest of city.

MU-F (formerly CL-R Light Commercial Residential): allow group housing with CUP, allow live/work with AUP, allow secondary dwelling unit on lots with a detached single-family dwelling, CUP for daycare, eliminate CUP for bar ancillary to restaurant, prohibit extensive retail, require CUP for business and trade schools (excludes tutoring), require CUP for social services, prohibited outdoor commercial recreation, allow wine tasting with CUP, prohibit funeral facilities, prohibit animal boarding (kennels), allow farmers market with AUP, prohibit mini storage, prohibit minor auto repair; require CUP for all drive-through establishments, require CUP for parking as principal use. Per the General Plan, new residential uses are not allowed until a master plan for the Monterey Corridor is developed.

A. Permitted Land Uses. Table 18.22-1 identifies land uses permitted in the MU-N and MU-F mixed-use zoning districts. For permitted land uses in the MU-D zoning district, see Figure 8 in the Downtown Specific Plan.

TABLE 18.22-1: PERMITTED LAND USES – ~~MIXED USE~~ MU-N AND MU-F ZONING DISTRICTS

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required – Use not allowed	Zoning District			Additional Regulations
	MU-D	MU-N	MU-F	
Residential Uses				Section 18.22.030
Accessory Dwelling Units	P+H	P [1]	P [1]	Chapter 18.84
Duets and Duplexes	€	P	C	
Group Housing	€	C	C	
Live/Work Unit	P	A	A	
Mixed Use Residential	P	P	P	
Multi-Family Dwellings	€	P	C	
Nursing Homes and Long-Term Care	-	C	C	
Residential Care Facilities	-	C	C	
Residential Care Facilities, Small	€	P	P	
Senior Housing, Independent Living	€	P	C	
Single-Family Attached Dwellings	€	P	C	
Single-Family Detached Dwellings	€	P	C	
Public and Quasi-Public Uses				
College and Trade Schools	P	P	P	
Community Assembly	€	C	C	
Cultural Institutions	€	A €	€ A	
Day Care Centers	€	C	C	
Emergency Shelters	-	-	C	Section 18.92.050
Government Offices	€	A €	€ A	
Home Day Care, Large	€	C	C	
Home Day Care, Small	€	P	P	
Hospitals	P	C	C	
Instructional Services	€	P €	€ P	
Medical Offices and Clinics	P	P	P	
Parks and Recreational Facilities	P	P	P	
Public Safety Facilities	€	C	C	
Schools, Public and Private	€	C	C	

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required – Use not allowed	Zoning District			Additional Regulations
	MU-D	MU-N	MU-F	
Social Services	-	-	C	
Commercial Uses				
Animal-Related Users				
Veterinarian Clinics and Hospitals	€	C	C	
Banks and Financial Institutions	P	P	P	
Business Support Services	P	P	P	
Cinemas and Theaters	€	Δ€	€Δ	
Commercial Recreation, Indoor				
≤ 153,000 sq. ft.	P	P	P	
> 153,000 sq. ft.	€	C	C	
Drive-Through Facilities	€	C	C	18.92.040
Eating and Drinking Uses				
Bars and Nightclubs	€	C	C	
Restaurant, Fast Food	P	P	P	
Restaurants, Sit Down	P	P	P	
Tasting Rooms	€	P€	€P	
Farmers Markets	A	A	A	
Lodging Facilities				
Bed and Breakfast	€	€Δ	€Δ	
Hotels and Motels	€	C-	C	
Personal Services	P	P	P	
Professional Offices	P	P	P	
Retail				
Convenience Market	€	Δ€	€Δ	18.92.030
General Retail	P	P	P	
Vehicle-Related Uses				
Fuel and Service Stations	-	-	C	
Vehicle Rentals	-	-	C	
Vehicle Washing	-	-	C	
Industrial Uses				
Food and Beverage Production				
< 5,000 sq. ft. [3]		P	P	
5,000 sq. ft. to 10,000 sq. ft. [3]		ΔC	ΔC	
Transportation, Communication, and Utility Uses				

Key	Zoning District			Additional Regulations
P Permitted Use				
A Administrative Use Permit required				
C Conditional Use Permit required				
– Use not allowed				
	MU-D	MU-N	MU-F	
Parking Lots or Structures [2]	–	C	C	
Recycling Facilities				
Reverse Vending Machines	–	–	C	
Transportation Terminals	–	–	–	
Wireless Communications Facilities	See Chapter 18.96			
Other Uses				
Accessory Uses	See Chapter 18.44			
Home Occupations	See Section 18.92.060			
Temporary Uses	See Section 18.92. 44 <u>150</u>			

Notes:

[1] Permitted only on lots with one existing or proposed new detached single-family dwelling.

[2] When proposed as a primary use.

[3] On-site wholesale or retail sales required.

- B. Replacement Housing.** Any proposed project that would replace existing rental housing occupied by a low or moderate-income household with commercial development or higher density residential uses shall comply with Municipal Code Chapter 15.30 (Replacement Housing).
- C. Additional Permits.** In addition to permits identified in Table 18.22-1, development projects in the mixed use zoning districts may also require a Design Permit pursuant to Section 18.108.040 (Design Permits). Modifications to a historic resource may require a Historic Alteration pursuant to Chapter 18.60 (Historic Resources).
- D. Residential Building Allotments.** All residential development must comply with the voter-approved Residential Development Control System (RDCS) as established in Chapter 18.78 (Residential Development Control System). The RDCS requires proposed residential projects to first receive residential building allotments before applying for land use entitlements. Section 18.78.050.C (Exemptions from Allotments) identifies types of residential projects exempt from the requirement to obtain residential building allotments.

18.22.030 – Residential and Mixed Use in the MU-F Zoning District

- *Note: Rules for residential and mixed use development in the MU-F zoning district will be added to this section after completion of the Monterey Corridor master plan.*

Residential and residential mixed use is not allowed in the MU-F zoning district until the completion of a master plan for the Monterey Corridor.

18.22.040 – Development Standards

► *Note: The following changes are made to existing development standards for the mixed use zoning districts:*

MU-D (formerly CBD): *Not changes – matches Downtown Specific Plan.*

MU-F (formerly ~~CCCL~~-R): *eliminated cul-de-sac parcel width, increased density in MU-F consistent with GP, decreased setbacks with different standards for residential and non-residential uses, removed noise standards.*

MU-N (formerly ~~CLCC~~-R): *eliminated cul-de-sac parcel width, standardized 60 ft. parcel width in all cases, changed residential setbacks to match CBD, ~~increase density to match MU-F~~, added new FAR standard, removed noise standards*

Reference to residential transition standards is new.

A. General. Table 18.22-2 identifies development standards that apply in the mixed zoning districts.

TABLE 18.22-2: DEVELOPMENT STANDARDS IN MIXED USE ZONING DISTRICTS

	MU-D	MU-N	MU-F	Additional Standards
Site Requirements				
Lot Area, Minimum	3,500 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	
Lot Width, Minimum	40 ft.	60 ft.	60 ft.	
Lot Depth, Minimum	80 ft.	100 ft.	100 ft.	
Floor Area Ratio, Maximum	2.0 [1]	1.0	0.5	
Residential Density				
<u>Minimum</u>	<u>None</u>	<u>8 du/acre</u>	<u>7 du/acre</u>	
<u>Maximum</u>	None	26-20 du/acre	246 du/acre	
Building Coverage, Maximum	None	75%	50%	
Structure Requirements				
Setbacks	See Table 18.22-3			18.56.030, 050 & 060
Height, Maximum	3 stories and 45 ft. [2]	35 ft. [3, 4]	35 ft. [3]	18.56.020

Notes:

[1] 2.25 FAR permitted on sites 22,000 sq. ft. or more.

[2] Four stories and 55 ft. permitted on sites 22,000 sq. ft. or more.

[3] 45 ft. permitted with a minimum of 10 ft. devoted to a roof element.

[4] 40 ft. allowed for vertical mixed use, regardless of roof form

- B. Setbacks.** Table 18.22-3 identifies setback standards that apply in the mixed zoning districts. Within each zoning district, setback standards for residential uses are different from setback standards for non-residential and mixed use development. See Figure 18.24-

TABLE 18.22-3: SETBACK STANDARDS IN MIXED USE ZONING DISTRICTS

	MU-D		MU-N		MU-F	
Setback	Res.	Non-Res. [1]	Res.	Non-Res. [1]	Res.	Non-Res. [1]
Front	<u>Min:</u> 6 ft. [2] <u>Max:</u> 15 ft.	<u>Min:</u> 0 ft. <u>Max:</u> 10 ft.	<u>Min:</u> 6 ft. [2] <u>Max:</u> 15 ft.	<u>Min:</u> 0 ft. [3] <u>Max:</u> 10 ft.	<u>Min:</u> 15 ft. [2] <u>Max:</u> None	<u>Min:</u> 10 ft. [4] <u>Max:</u> None
Rear, Min.	0 ft.	10 ft.	0 ft.	10 ft.	20 ft.	10 ft.
Interior Side, Min.	5 ft.	0 ft.	5 ft.	0 ft.	5 ft.	0 ft.
Street Side, Min.	6 ft.	0 ft.	6 ft.	0 ft.	10 ft.	10 ft. [4]

Notes:

- [1] Includes mixed use buildings with residential uses above ground floor commercial.
 [2] Residential porches and similar entry features may project 5 ft. into the front setback. See Figure 18.22-1.
 [3] Building wall must be setback a minimum of 10 feet from the edge of curb. See Figure 18.22-2.
 [4] Outdoor seating, courtyards, and other publicly-accessible spaces may project 5 feet into the front setback.

- C. Residential Transition Standards – MU-N and MU-F.** Where a property zoned MU-N or MU-F abuts a residential zoning district, projects shall comply with increased setbacks, upper story setbacks, and landscaping standards as specified in Section 18.92.130 (Residential Transition Standards).

FIGURE 18.22-1: PERMITTED PROJECTION INTO FRONT SETBACK – RESIDENTIAL USES

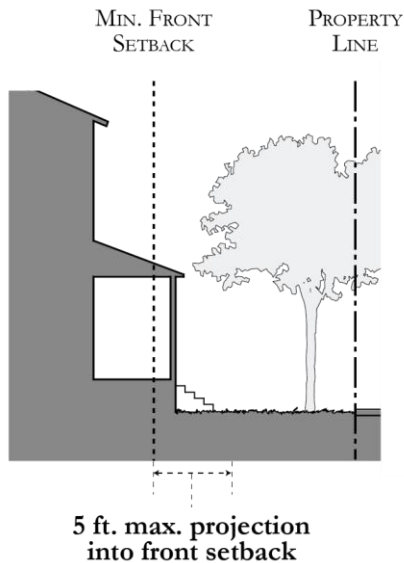
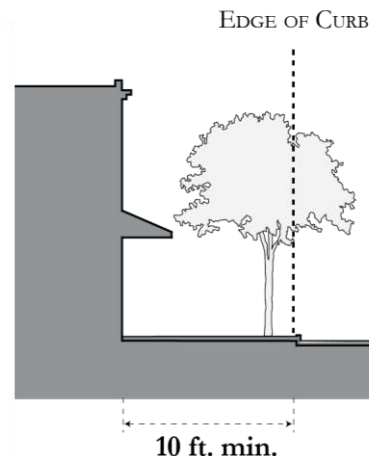


FIGURE 18.22-2: MINIMUM SETBACK FROM CURB – MU-N ZONING DISTRICT



– This Page Intentionally Left Blank –

Chapter 18.24 – COMMERCIAL ZONING DISTRICTS

Sections:

18.24.010 – Purpose of the Commercial Zoning Districts

18.24.020 – Land Use Regulations

18.24.030 – Development Standards

18.24.010– Purpose of the Commercial Zoning Districts

► *Note: The existing Theme Unit Development and Administrative Office commercial zoning districts have been eliminated. The name of the existing Highway Commercial (HC) zoning district is changed to Highway Commercial (CH).*

A. General. The purpose of the commercial zoning districts is to provide locations for a variety of commercial uses to meet the need of residents, visitors, and workers in Morgan Hill. Development within the commercial zoning districts is attractively designed to enhance Morgan Hill's unique character and economic prosperity. Commercial uses are clustered and concentrated to utilize land resources efficiently and support a balanced transportation system. Employment uses accommodate a diversity of jobs that contribute to a dynamic local economy.

B. Specific.

1. **Neighborhood Commercial (CN).** The purpose of the CN zoning district is to provide a location for retail, office, and service uses to serve residents living in surrounding neighborhoods.
2. **General Commercial (CG).** The purpose of the CG zoning district is to provide a location for a broad range of commercial and employment uses to serve Morgan Hill residents, workers, and visitors.
3. **Highway Commercial (CH).** The purpose of the CH zoning district is to provide areas adjacent to the freeway that can accommodate highway and tourist oriented ~~uses, and~~ uses and uses which require the high visibility of thoroughfare locations.
4. **Service Commercial (CS).** The purpose of the CS zoning district is to provide an area for commercial services that may be inappropriate in neighborhood or pedestrian-oriented shopping areas, and which generally require automotive access for customer convenience, servicing of vehicles or equipment, loading or unloading, or parking of commercial service vehicles.

18.24.020 – Land Use Regulations

► *Note: The following changes have been made to existing commercial zoning district land use regulations:*

CN zoning district: Allow small residential care facilities with CUP, allow cultural institutions with a CUP, allow schools with a CUP, allows social services with a CUP, allows banks and financial institutions by-right, allows business support services by-right, allows cinemas and theatres with a CUP, allows indoor commercial recreation with a CUP, allows bars and nightclubs with CUP, allows wine tasting with a CUP, allows vehicle washing with CUP, allows indoor vehicle sales with a CUP, allows reverse vending machines with CUP.

CG zoning district: Allow colleges and trade schools with CUP, allow community assembly with CUP, allow cultural institutions with a CUP, require AUP for day care centers, allow schools with a CUP, allows social services with a CUP, allows animal boarding and veterinarian clinics with a CUP, allows business support services by-right, allows cinemas and theatres with a CUP, allows bars and nightclubs with CUP, allows wine tasting with a CUP, allows funeral parlors with a CUP, allows home improvement centers with a CUP, allows plant nurseries with a CUP, allows large commodity retail with CUP, allows vehicle washing with CUP, allows parking lots and structures as a primary use with CUP, allows indoor vehicle sales with a CUP, allows reverse vending machines with CUP.

CH zoning district: Allow banks and financial institutions by-right, allows business support services by-right, allows vehicle rentals by-right, allows reverse vending machines with CUP.

CS zoning district: Allow social services with a CUP, allows business support services by-right, allows funeral parlors with a CUP, allows large commodity retail with CUP, allows towing and impound with a CUP, allows vehicle rentals by-right, allows vehicle washing with CUP, allows construction and material yards with a CUP. Allows research and development with a CUP, allows warehousing and distribution with a CUP, allows Freight/Truck Terminals and Warehouses with a CUP, allows reverse vending machines with CUP, allows recycling collection facilities with CUP.

A. Permitted Land Uses. Table 18.24-1 identifies land uses permitted in the commercial zoning districts.

TABLE 18.24-1 PERMITTED LAND USES IN THE COMMERCIAL ZONING DISTRICTS

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required - Use not allowed	Zoning District				Additional Regulations
	CN	CG	CH	CS	
Residential Uses					
Caretaker Quarters	-	C	-	C	
Nursing Homes and Long-Term Care	C	C	-	-	
Residential Care Facilities	C	-	-	-	

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required - Use not allowed	Zoning District				Additional Regulations
	CN	CG	CH	CS	
Public and Quasi-Public Uses					
Colleges and Trade Schools	C	C	-	-	
Community Assembly	C	C	-	-	
Cultural Institutions	C	C	-	C	
Day Care Centers	C	A	-	C	
Government Offices	P	P	-	C	
<u>Instructional Services</u>	A	A	A	A	
Medical Offices and Clinics	P	P	A	C	
Schools, Public and Private	C	C	-	-	
Social Services	C	C	-	C	
Commercial Uses					
Animal-Related Uses					
Animal Boarding	C	C	-	C	
Veterinarian Clinics and Hospitals	A E	E A	A	P	
Banks and Financial Institutions	P	P	P	P	
Business Support Services	P	P	P	P	
Cinemas and Theatres	A E	E A	A	A	
Commercial Recreation, Indoor					
≤ 153 ,000 sq. ft.	P	P	P	P	
> 153 ,000 sq. ft.	C	C	C	C	
Drive-Through and Drive-In Facilities	C	C	C	C	18.92.040
Eating and Drinking Uses					
Bars and Nightclubs	C	C	-	-	
Restaurants, Fast Food	C	P	P	C	
Restaurants, Sit-Down	C	P	P	C	
Tasting Rooms	C	A	P	C	
Funeral Parlors and Mortuaries	-	C	-	C	
Lodging Facilities					
Hotels and Motels	C	A E	P	E A	
Mini-Storage	-	C	-	C	
Personal Services	P	P	-	C	
Plant Nurseries	-	C	-	P	
Professional Offices	P	P	P	P E	
Retail Uses					
Convenience Markets	C	C	C	C	

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required - Use not allowed	Zoning District				Additional Regulations
	CN	CG	CH	CS	
General Retail	P	P	P	C	
Home Improvement Centers	-	P	-	P	
Large Commodity Retail	-	C	-	C	
Vehicle-Related Uses					
Fuel and Service Stations	C	C	C	C	
Towing and Impound	-	-	-	C	
Vehicle Rentals	C [2]	-C [2]	P	P	
Vehicle Repair and Maintenance, Minor	-	C	-	P	
Vehicle Sales and Leasing	C [1]	C [1]	P	P	
Vehicle Washing	C	C	C	C	
Wholesaling	-	C	-	P	
Industrial Uses					
Construction and Material Yards	-	-	-	C	
<u>Food and Beverage Production</u>					
<u>< 5,000 sq. ft. [3]</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	
<u>5,000 sq. ft. to 10,000 sq. ft. [3]</u>	<u>A</u>	<u>A</u>	<u>C</u>	<u>A</u>	
<u>> 10,000 sq. ft.</u>	<u>=</u>	<u>C</u>	<u>=</u>	<u>C</u>	
Research and Development	-	-	-	C	
Warehousing and Distribution, Large and Small	-	-	-	C	
Transportation, Communication, and Utility Uses					
Freight Terminals and Transfer	-	-	C	-	
Light Fleet-Based Services	C	C	-	C	
Parking Lots and Structures	-	C	-	C	
Recycling Facilities					
Reverse Vending Machine	C	C	C	C	
Recycling Collection Facility	-	-	-	C	
Transportation Terminals	-	-	-	C	
Utilities, Major	-	C	-	C	
Wireless Communications Facilities	See Chapter 18.96				
Other Uses					
Accessory Uses	See Chapter 18.44				
Temporary Uses	See Section 18.92.440150				

Notes:

[1] Allowed only when conducted entirely within an enclosed building without outdoor storage and display of vehicles.

[2] Vehicles stored outdoors must be fully screened from public view.[3] On-site wholesale or retail sales required.

- B. Additional Permits.** In addition to permits identified in Table 18.24-1, development projects in the commercial zoning districts may also require a Design Permit pursuant to Section 18.108.040 (Design Permits). ~~Modifications to a historic resource may require a Historic Alteration pursuant to Chapter 18.60 (Historic Resources).~~
- C. Outdoor Uses and Storage.** In the commercial zoning districts, all uses shall be conducted wholly within a completely enclosed building except as follows:
1. In the CS zoning district, outdoor storage associated with any permitted use is allowed with a Conditional Use Permit.
 2. In the CG zoning district, outdoor storage and display associated with a Home Improvement Center is allowed with a Conditional Use Permit.

18.24.030– Development Standards

► *Note: The following changes are made to existing development standards for the mixed use zoning districts:*

All zoning districts: New residential transition standards, deletes minimum cul-de-sac lot width, increases street side setback to match front setback.

CN zoning district: Deletes minimum zoning district area, deletes limitation to one quadrant of an intersection.

A. General. Table 18.24-2 identifies development standards that apply in the commercial zoning districts.

B. Hotel Height in the CH Zoning District.

1. With the issuance of a Design Permit, the Planning Commission may allow a hotel with a maximum height of up to 65 feet on parcels in the CH zoning district directly adjacent to Highway 101.
2. To approve the Design Permit, the Planning Commission must find that the project incorporates enhanced building design features that mitigate any adverse aesthetic impacts that may result from the increased building height.

B.C. Residential Transition Standards. Where a property zoned in a commercial zoning district abuts a residential zoning district, projects shall comply with increased setbacks, upper story stepbacks, and landscaping standards as specified in Section 18.92.130 (Residential Transition Standards).

TABLE 18.24-2: DEVELOPMENT STANDARDS IN THE COMMERCIAL ZONING DISTRICTS

	CN	CG	CH	CS	Additional Standards
Site Requirements					
Lot Area, Minimum	10,000 sq. ft.	10,000 sq. ft.	20,000 sq. ft.	10,000 sq. ft.	
Lot Width, Minimum	100 ft.	100 ft.	70 ft.	100 ft.	
Lot Depth, Minimum	100 ft.	100 ft.	125 ft.	100 ft.	
Building Coverage, Maximum	50%	50%	40%	50%	
Structure Requirements					
Setbacks, Minimum					18.56.030, 050 & 060
Front	25 ft.	25 ft.	40 ft.	25 ft.	
Rear	20 ft.	20 ft.	20 ft.	20 ft.	
Interior Side	0 ft.	0 ft.	0 ft.	0 ft.	
Street Side	15 ft.	15 ft.	15 20 ft.	15 25 ft.	
Height, Maximum	2 ½ stories and or 30 ft., <u>whichever is less</u>	3 stories and <u>or</u> 35 ft., <u>whichever is less</u>	3 stories and <u>or</u> 35 ft., <u>whichever is less</u>	3 stories and <u>or</u> 35 ft., <u>whichever is less</u>	<u>18.24.030.B</u> ; 18.56.020

Chapter 18.26 – INDUSTRIAL ZONING DISTRICTS

Sections:

18.26.010 – Purpose of the Industrial Zoning Districts

18.26.020 – Land Use Regulations

18.26.030 – Development Standards

18.26.010– Purpose of the Industrial Zoning Districts

► *Note:* The Commercial Industrial (CI) zoning district is new to implement the Commercial/Industrial General Plan land use designation. The names of existing zoning districts are changed as follows: Office Industrial (MO) becomes Light Office Industrial (IO); Campus Industrial (MC) becomes Campus Industrial (IC); Light Industrial (ML) becomes Light Industrial (IL); General Industrial (MG) becomes General Industrial (IG).

A. General. The purpose of the industrial zoning districts is to provide locations to maintain and focus industrial development in economically and geographically strategic locations in Morgan Hill. Permitted land uses in the industrial zoning districts are limited to avoid potential conflicts that would adversely impact industrial activities. Development is designed to enhance the economic vitality of industrial areas and limit impacts on adjacent development.

B. Specific.

1. **Commercial Industrial (CI).** The purpose of the CI zoning district is to promote job-generating development of lands by allowing flexibility in the mix of industrial, office, and commercial uses that are compatible with existing development.
2. **Light Office Industrial (IO).** The purpose of the IO zoning district is to provide areas for mixed administrative and executive office uses in appropriate areas within the community.
3. **Campus Industrial (IC).** The purpose of the IC zoning district is to provide an environment exclusively for and conducive to the development and protection of modern administrative facilities, research institutions and specialized manufacturing operations.
4. **Light Industrial (IL).** The purpose of the IL zoning district is to provide areas for research, administrative, lighter manufacturing, wholesale and heavy service commercial uses not suitable in commercial districts.
5. **General Industrial (IG).** The purpose of the IG zoning district is to provide areas for general industrial, manufacturing, wholesale and service uses needed by the city and region subject to regulations necessary to protect other nearby uses from hazards and noise and other disturbances.

18.26.020– Land Use Regulations

► *Note: The following changes have been made to existing industrial zoning district land use regulations:*

CI zoning district: *This district is new.*

IO zoning district: *Removes requirement for classified as a Level One hazardous materials user as defined by the Morgan Hill Fire Department, eliminates sign prohibition for incidental services, allows construction and material yards with a CUP, allows reverse vending machine with CUP.*

IC zoning district: *Requires CUP for all light manufacturing uses, eliminates sign prohibition for incidental services; deletes CUP for hazardous materials reprocessing, allows warehousing and distributing if ancillary to another permitted use, allows light fleet-based services with CUP, allows construction and material yards with a CUP, allows reverse vending machine with CUP.*

IL zoning district: *Deletes 18.36.035 (Prohibited Uses), allows animal boarding with a CUP, allows towing and impound by-right, deletes limitations on sale of household furniture in 18.36.030.K.10 allows business support service by right, allows major vehicle repair and maintenance with CUP, allows construction and material yards by-right, allows reverse vending machines by right.*

IG zoning district: *Deletes 18.38.035 (prohibited uses), allows animal boarding with a CUP, allows towing and impound by-right, allows major vehicle repair and maintenance by-right, allows construction and material yards by-right.*

A. Permitted Land Uses. Table 18.26-1 identifies land uses permitted in the industrial zoning districts.

TABLE 18.26-1 PERMITTED LAND USES IN THE INDUSTRIAL ZONING DISTRICTS

Key	Zoning District					Additional Regulations
P Permitted Use						
A Administrative Use Permit required						
C Conditional Use Permit required						
– Use not allowed						
	CI	IO	IC	IL	IG	
Residential Uses						
Caretaker Quarters	–	–	–	C	C	
Public and Quasi-Public Uses						
Colleges and Trade Schools	C	C	C	C	C	
Community Assembly	C	–	–	C	C	
<u>Instructional Services</u>	PA	=	=	=	=	
<u>Medical Offices and Clinics</u>	A	=	=	=	=	
Parks and Recreational Facilities	C	–	–	C	C	
Public Safety Facilities	C	–	–	C	C	
Commercial Uses						
Adult Businesses	–	–	P	P	P	18.92.020

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required – Use not allowed	Zoning District					Additional Regulations
	CI	IO	IC	IL	IG	
Animal-Related Commercial Uses						
Animal Boarding	C	–	–	C	C	
Veterinarian Clinics and Hospitals	A C	A –	A –	C	C	
Banks and Financial Institutions	C [4]	–	–	–	–	
Business Support Services	P	C	P	P	P	
<u>Cinemas and Theaters</u>	A	–	–	–	–	
Commercial Recreation, Indoor	C	C	C	C	C	
<u>≤ 15,000 sq. ft.</u>	P	C	C	C	C	
<u>> 15,000 sq. ft.</u>	C	C	C	C	C	
Eating and Drinking Uses						
Restaurants, Fast Food	C [4]	– [5]	– [5]	– [5]	– [5]	
Restaurants, Sit-Down	C [4]	– [5]	– [5]	– [5]	– [5]	
Tasting Rooms	CAP [6]	–	–	C A [6]	C A [6]	
Lodging Facilities						
Hotels and Motels	C [4]P	–	–	–	–	
Mini-Storage	–	–	–	C	C	<u>18.92.100</u>
Personal Service	C [4]	– [5]	– [5]	– [5]	– [5]	
Plant Nurseries	C	–	–	P	P	
Professional Offices	P	P	P	P	P	
Retail						
Building Materials	C	–	–	P	P	
Convenience Markets	C [4]	– [5]	– [5]	– [5]	– [5]	
General Retail	C [4]	– [5]	– [5]	– [5]	– [5]	
Home Improvement Centers	C	–	–	C	C	
Large Commodity Retail	C	–	–	C	C	
Vehicle-Related Uses						
Towing and Impound	–	–	–	C	P	
Vehicle Repair and Maintenance, Major	–	–	–	C	P	
Vehicle Repair and Maintenance, Minor	–	–	–	P	P [1]	
Wholesaling	P	–	–	P	P	
Industrial Uses						
Construction and Material Yards	C	C	C	P	P	18.36.030.C
Food and Beverage Production						
<u>< 5,000 sq. ft. [7]</u>	PA [2]	PA [2]	PA [2]	P [2]	P [2]	

Key	Zoning District					Additional Regulations
P Permitted Use						
A Administrative Use Permit required						
C Conditional Use Permit required						
– Use not allowed						
	CI	IO	IC	IL	IG	
5,000 sq. ft. to ≤ 10,000 sq. ft. [7]	PC [2]	PC [2]	PC [2]	P [2]	P [2]	
> 10,000 sq. ft.	C	C	C	Δ	Δ	
Manufacturing, Light	P	C [3]	C	P	P	
Manufacturing, General	–	–	–	–	C	
Research and Development	P	P	P	P	P	
Salvage and Wrecking	–	–	–	–	C	
Warehousing and Distribution						
Warehousing and Distribution, Large	C	C [3]	C [3]	C	P	
Warehousing and Distribution, Small	C	C [3]	C [3]	P	P	
Warehousing and Distribution with Outdoor Storage	C	–	–	C	C	
Transportation, Communication, and Utility Uses						
Freight Terminals and Transfer	–	–	–	–	C	
Light Fleet-Based Services	C	–	C	P	P	
Recycling Facilities						
Reverse Vending Machine	P	C	C	P	P	
Recycling Collection Facility	C	–	–	C	C	
Recycling Processing Facility	–	–	–	–	C	
Utilities, Major	–	–	–	C	C	
Wireless Communications Facilities	See Chapter 18.96					
Agriculture and Natural Resource Uses						
Crop Cultivation	–		–			
Other Uses						
Accessory Uses	See Chapter 18.44					
Temporary Uses	See Section 18.92.440 150					

Notes:

[1] Retail sale of automotive products allowed only when ancillary to a vehicle repair and maintenance use. Retail display areas for automotive products may not exceed 25 percent of the building floor area.

[2] Must be 150 feet or more from a residential zoning district, otherwise requires a CUP.

[3] Permitted only when ancillary to another permitted use.

[4] Allowed as a primary use only when the Planning Commission finds that the use supports the primary job-generating uses within a business park setting.

[5] Allowed when accessory to a permitted primary use subject to the limitations in Section 18.26.020.D (Accessory Uses).

[6] Allowed only when accessory to a brewery, winery, or other alcoholic beverage production facility. Tasting rooms must be located within the building occupied by the primary use and may not exceed 3,000 square feet or 10 percent of the floor area of the primary use, whichever is less.

[7] On-site wholesale or retail sales required.

B. Additional Permits. In addition to permits identified in Table 18.26-1, development projects in the industrial districts may also require a Design Permit pursuant to Section 18.108.040 (Design Permits). Modifications to a historic resource may require a Historic Alteration pursuant to Chapter 18.60 (Historic Resources).

C. Outdoor Uses.

1. In the IO zoning district, all uses shall be conducted wholly within a completely enclosed building. Outdoor uses are prohibited.
2. In all other industrial zoning districts, outdoor uses shall be screened from public view and the area containing the outdoor use shall meet the minimum design standards applicable to off-street parking facilities as specified in Section 18.72.060 (Parking Design and Development Standards).

D. Accessory Uses.

1. In all industrial zoning districts, retail, personal service, recreation, restaurants, and other similar uses are permitted as an accessory use provided the following conditions are met:
 - a. The use is conducted within the building occupied by the primary use; and
 - b. The use is to serve only employees and guests of the primary use; and
 - c. The use is limited to no more than 3,000 square feet or 10 percent of the floor area of the primary use, whichever is less.
2. Tasting rooms associated with a brewery, winery, or other alcoholic beverage production facility are allowed in industrial zoning districts as specified in Table 18.26-1.

18.26.030– Development Standards

► *Note: The following changes are made to existing development standards for the industrial zoning districts:*

IL zoning district: Requires 15 ft. street side setback, removes reference to nuisances and performance standards (applies to all uses), allows maximum FAR of 0.6

IG zoning district: Requires 15 ft. street side setback, removes reference to nuisances and performance standards (applies to all uses), allows maximum FAR of 0.6

IC zoning district: removes 18.40.050 (Additional required conditions), allows maximum building coverage of 40 percent.

IO zoning district: Allows maximum FAR of 0.6

CI zoning district: This zoning district is new.

A. General. Table 18.26-2 identifies development standards that apply in the industrial zoning districts.

TABLE 18.26-2: INDUSTRIAL ZONING DISTRICT DEVELOPMENT STANDARDS

	CI	IO	IC	IL	IG	Additional Standards
Site Requirements						
Lot Area, Minimum	20,000 sq. ft.	40,000 sq. ft.	5 acres	20,000 sq. ft.	20,000 sq. ft.	
Lot Width, Minimum	100 ft.	100 ft.	300 ft.	100 ft.	150 ft.	
Lot Depth, Minimum	100 ft.	100 ft.	300 ft.	100 ft.	100 ft.	
Floor Area Ratio, Maximum	0.5/0.6 [1]	0.6	0.5	0.6	0.6	
Building Coverage, Maximum	60%	40%	40%	50%	60%	
Structure Requirements						
Setbacks, Minimum						Chapter 18.56
Front	30 ft.	40 ft.	50 ft.	30 ft.	30 ft.	
Rear	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	
Interior Side	10 ft.	10 ft.	25 ft.	10 ft.	15 ft.	
Street Side	15 ft.	15 ft.	15 ft.	15 ft.	15 ft.	
Height, Maximum	30 ft./50 ft. [2]	35 ft.	50 ft.	50 ft.	50 ft.	18.56 <u>18.26.030.B</u>

Notes:

[1] An FAR of 0.6 is allowed for industrial uses. An FAR of 0.5 is allowed for non-industrial land uses.

[2] A height of 50 feet is allowed for industrial uses. A height of 30 feet is allowed for non-industrial land uses.

B. Hotel Height in the CI Zoning District.

1. With the issuance of a Design Permit, the Planning Commission may allow a hotel with a maximum height of up to 65 feet on parcels in the CI zoning district directly adjacent to Highway 101.
2. To approve the Design Permit, the Planning Commission must find that the project incorporates enhanced building design features that mitigate any adverse aesthetic impacts that may result from the increased building height.

B.C. Residential Transition Standards. Where a property in an industrial zoning district abuts a residential zoning district, projects shall comply with increased setbacks, upper story stepbacks, and landscaping standards as specified in Section 18.92.130 (Residential Transition Standards).

C.D. Cul-De-Sac Lot Width. In all industrial zoning districts except for the IC zoning district, the minimum width of a cul-de-sac lot is 80 feet as measured along the radius of the front property line.

~~D.E.~~ Joint Access Agreement - IL, IG Zoning Districts. For parcels of less than 40,000 square feet in area, a joint mutual access agreement between adjoining parcels shall be required for reasonable vehicular and pedestrian passage.

– This Page is Intentionally Blank –

Chapter 18.28 – OPEN SPACE, PUBLIC, AND RECREATION ZONING DISTRICTS

Sections:

18.28.010 – Purpose of the Open Space, Public, and Recreation Zoning Districts

18.28.020 – Land Use Regulations

18.28.030 – Development Standards

18.28.010 – Purpose of the Open Space, Public, and Recreation Zoning Districts

- A. Open Space.** The purpose of the Open Space (OS) zoning district is to preserve and enhance open space lands as a limited and valuable resource in Morgan Hill. The OS zoning district is intended to permit limited but reasonable use of open space lands while reducing exposure to geologic hazards, to preserve agricultural land, and to preserve the topographic features that contribute to Morgan Hill's unique identity.
- B. Public Facilities.** The purpose of the Public Facilities (PF) zoning district is to provide a location for schools, governmental offices, parks and recreational facilities, fire and police stations, utilities, and other public and quasi-public facilities to serve the community.
- C. Sports Recreation and Leisure (SRL).** The purpose of the SRL zoning district is to provide a location for a variety of private commercial, retail, and public or quasi-public land sports, recreation, and leisure uses to serve the community. The SRL zoning district includes two sub-zones:
1. The SRL-A sub-zone which supports lower intensity sports, recreation, and leisure uses that are compatible with nearby agricultural and open space activities; and
 2. The SRL-B sub-zone which supports lower and medium intensity sports, recreation, and leisure uses.

18.28.020 –Land Use Regulations

- *Note: Small home day care is allowed by right in the OS zoning district. All other existing land use regulations remain unchanged.*
-

A. Open Space and Public Facility Zones.

1. **Permitted Land Uses – General.** Table 18.28-1 identifies land uses permitted in the Open Space (OS) and Public Facilities (PF) zoning districts.

TABLE 18.28-1: PERMITTED LAND USES IN THE OPEN SPACE AND PUBLIC FACILITIES ZONING DISTRICTS

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required - Use not allowed	Zoning District		Additional Regulations
	OS	PF	
Residential Uses			
Accessory Dwelling Units	P	-	Chapter 18.84
Agricultural Labor Accommodations	C	-	
Single-Family Detached Dwellings	P	-	
Public and Quasi-Public Uses		-	
Cemeteries	C	C	
Colleges and Trade Schools	-	C	
Community Assembly	-	C	
Cultural Institutions	-	P [1]	
Day Care Centers	-	C	
Emergency Shelters	-	P	
Government Offices	-	P	
Home Day Care, Small	P	-	
Hospitals	-	P -	
Instructional Services	-	P [1]	
Parks and Recreational Facilities	P	P [1]	
Public Safety Facilities	C	P	
Schools, Public	-	P	
Schools, Private	-	C	
Commercial Uses			
Animal-Related Commercial Uses			
Animal Boarding	C	-	
Equestrian Centers	C	-	
Farmer's Markets	C	C	
Plant Nurseries	C [2]	-	
Transportation, Communication, and Utility Uses		-	
Parking Structures and Facilities	-	P [1]	
Utilities, Major	-	C	
Wireless Communications Facilities	See Chapter 18.96		
Agriculture and Natural Resource Uses			
Crop Cultivation	P	-	

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required - Use not allowed	Zoning District		Additional Regulations
	OS	PF	
Animal Raising and Production, Intensive	C	-	
Animal Raising and Production, Limited	P	-	
Wildlife Refuges	P	-	
Other Uses			
Accessory Uses	See Chapter 18.44		
Home Occupations	See Section 18.92.060		
Temporary Uses and Structures	See Section 18.92.440 150		

Notes:

[1] A Conditional Use Permit is required if not owned or operated by a governmental agency.

[2] Sales are limited to horticultural products grown on site.

B. Design Permit for Residential Uses in the OS Zone. In addition to projects requiring Design Permits pursuant to 18.108.040 (Design Permits), the construction of new residential uses requires a Design Permit to verify conformance with Section 18.36.030.B (Performance Standards in OS Zone) and all other applicable requirements.

C. Sports Recreation and Leisure Zones. Table 18.28-2 identifies land uses permitted in the SRL-A and SRL-B sub-zones.

TABLE 18.28-2: PERMITTED LAND USES IN THE SPORTS RECREATION LEISURE ZONING DISTRICT

Key P Permitted use C Conditional Use Permit required - Use not allowed	Zoning District		Additional Regulations
	SRL-A	SRL-B	
Residential Uses			
Single-family detached dwellings	P [1]	P [1]	
All other new residential land uses	-	-	
Commercial Uses			
Drive-through establishments	-	C [6]	
Gas and service stations	-	C	
Hotel and motels	-	C	
Restaurants	-	C	
Retail that is sports-themed or sports/recreation-serving	-	C	
Sports, Recreation, and Leisure Uses			
Adventure sports facilities	P	P	
Arts and crafts studios	P	P	
Batting cages	P	P	

Key P Permitted use C Conditional Use Permit required – Use not allowed	Zoning District		Additional Regulations
	SRL-A	SRL-B	
Bowling alleys	-	-	
Campgrounds	-	-	
Casinos, card clubs, and gambling facilities	-	-	
Cinemas and movie theaters	-	-	
Day spas, barbershops, and hair salons	C [2]	C [2]	
Equestrian centers	P	P	
Golf courses	P [3]	P [3]	
Health and fitness clubs and indoor recreation centers oriented to local residents	C [4]	C [4]	
Indoor or outdoor sports centers	P	P	
Outdoor race tracks for cars, go-karts, or similar use;	-	-	
Pool and billiards halls	-	-	
Recreational vehicle parks	-	-	
Sports Fields	P	P	
Stadiums	-	-	
Swimming pools, indoor and outdoor	P [5]	P [5]	
Agriculture and Natural Resource Uses			
Crop cultivation	P	P	
Farmer’s market	P	P	
Sales of agricultural products grown on site	P	P	
Wineries	P	P	
Transportation, Communication, and Utility Uses			
Wireless communications facilities	See Chapter 18.96		
Other Uses			
Accessory Uses and Structures	See Chapter 18.44		
Home Occupations	See Section 18.92.060		
Temporary Uses and Structures	See Section 18.92.440 150		

Notes:

[1] Permitted only on a legal lot of record established in the unincorporated area prior to August 1, 2014.

[2] May be permitted with a Conditional Use Permit if ancillary to hotel or motel use.

[3] Golf courses in excess of three holes are prohibited.

[4] Fitness and exercise facilities ancillary to a primary destination-oriented sports/recreation/leisure use are allowed with a Conditional Use Permit.

[5] Permitted if ancillary to hotel or motel use.

[6] No more than two drive-through establishments are permitted in the SRL-B zone.

D. Additional Permits. In addition to permits identified in Table 136-1, development projects in the open space, public, and recreation zoning districts may also require a Design Permit pursuant to Section 18.108.040 (Design Permits). ~~—~~ Modifications to a

historic resource may require a Historic Alteration pursuant to Chapter 18.60. (Historic Resources).

- E. Hillside Combining District.** Development on site with an average slope of 10 percent or greater are subject to the requirements of Section 18.30.040 (Hillside Combining District).

18.28.030 Development Standards

► *Note: existing development standards have been changed as follows:*

OS Zoning District: Changed street side setback to always be 25 ft. min; removed minimum lot width for cul-de-sac lots.

PF Zoning District: Changed building coverage, setbacks and height to be as required by the review authority; eliminated cul-de-sac width.

SRL Zoning District: Removed nuisance prohibition in 18.27.070 – applies to all uses in all zoning districts.

- A. General.** Table 18.28-3 identifies development standards that apply in the public, open space, and recreation zoning districts.

- B. Performance Standards in OS Zoning District.** The following standards apply to all development and land uses in the OS zoning district.

~~1. **Existing Vegetation.** Existing natural vegetation shall be retained and protected to the maximum extent feasible.~~

2.1. Stormwater Runoff. In addition to requirements in Chapter 18.140 (Post Construction Stormwater Pollution Prevention), development shall comply with the following standards:

- a. Permanent vegetation and improvements capable of carrying stormwater runoff in a safe manner shall be installed to the extent possible before the vegetative cover is removed from the area.
- b. Sediment basins, including debris basins, desilting basins and silt traps, shall be installed and maintained to reserve sediment from runoff waters of land undergoing development.

~~3.2.~~ **Public Services and Infrastructure.** Construction of dwellings for which Conditional Use Permits are required are permitted only if the proposed dwelling units are served by public sewers, public water, , and ingress/egress that comply with minimum fire department standards. The City may grant exceptions to the public sewer and public water requirements for:

TABLE 18.28-1: PUBLIC, OPEN SPACE, AND RECREATION DEVELOPMENT STANDARDS

	OS	PF	SRL-A	SRL-B	Additional Standards
Site Requirements					
Lot Area, Minimum	5 acres	None	1 acre	1 acre	
Lot Width, Minimum	100 feet		100 ft.	100 ft.	
Lot Depth, Minimum	None		150 ft.	150 ft.	
Impervious Coverage, Maximum	10% [1]	As required by review authority	None	None	
Building Coverage, Maximum	5% [2]		30%	50%	
Structure Requirements					
Setbacks, Minimum					18.56.030, 050 & 060
Front	50 ft.	As required by review authority	30 ft.	20 ft.	
Rear	50 ft.		50 ft.	15 ft.	
Interior Side	50 ft.		20 ft.	15 ft.	
Street Side	25 ft.		30 ft.	20 ft.	
Height, Maximum	2 stories or 25 ft.		35 ft.	35 ft.	18.56.020

Notes:

[1] Planning Commission may allow greater impervious surface with a Conditional Use Permit.

[2] 30 percent for those existing lots less than 5 acres.

- a. Areas that were annexed into the city outside the urban service area with approved private water and septic systems; and
- b. Secondary dwellings where a private septic tank disposal system has been approved for the primary dwelling on the same parcel of land.

C. Outdoor Storage in the PF Zone. Areas used for outdoor storage in the PF zoning district shall meet the minimum design standards applicable to off-street parking facilities as specified in Section 18.72.060 (Parking Design and Development Standards).

Chapter 18.30 – OVERLAY ZONES AND COMBINING DISTRICTS

Sections:

- 18.30.010 – Purpose of Overlay Zones and Combining Districts
- 18.30.020 – Downtown Ground Floor Overlay Zone
- 18.30.030 – Downtown Specific Plan Overlay Zone
- 18.30.040 – Hillside Combining District
- 18.30.050 – Planned Development Combining District
- 18.30.060 – Active Fault Surface Rupture Combining District

18.30.010 – Purpose of Overlay Zones and Combining Districts

- A. Overlay Zones.** An overlay zone is a defined geographic area shown on the Zoning Map where special requirements apply in addition to the underlying base zoning district requirements.
- B. Combining Districts.** A combining district is a designation applied to a property, or a portion of a property, indicating that special requirements apply in addition to the base zoning district requirements. If and when a combining district is applied to a property, it is shown on the Zoning Map with the combining district label attached to base zoning district label (e.g., “RE (H)”).
- C. Conflicting Requirements.** Whenever a requirement of an overlay zone or combining district conflicts with a requirement of the underlying base zone, the overlay zone or combining district requirement shall control. Where two or more overlay zone or combining district requirements conflict, the review authority for the requested permit or approval shall determine the appropriate requirement.

18.30.020 – Downtown Ground Floor Overlay Zone

- *Note: This section makes the following changes to the existing Zoning Code: eliminates the Downtown Administrative Use Permit; requires an AUP with special findings and other requirements when used for ground floor uses in the GDF overlay zone; requires use to be advertised for 6 months, not 90 days; deletes evaluation criteria in existing Section 18.54.270, which are redundant with general AUP findings and specific GF overlay findings.*
-

- A. Purpose of Downtown Ground Floor Overlay Zone.** The purpose of the Downtown Ground Floor (-GF) overlay zone is to ensure that ground floor land uses fronting Monterey Road and Third Street in Downtown Morgan Hill support an active and engaging pedestrian environment in a manner consistent with the Downtown Specific Plan.

B. Applicability. The -GF overlay zone applies to parcels fronting portions of Monterey and Third Streets within the Downtown Specific Plan boundary as shown on the Zoning Map.

~~1. The -GF overlay zone includes all portions of the property within 75 feet of the property line fronting Monterey Road or Third Street.~~

C. Ground Floor Defined. For the purposes of this section, "ground floor" means the first floor which is above grade.

D. Land Uses Regulations.

1. **Ground Floor Uses.** ~~Table 18.30-1~~ Figure 8 in the Downtown Specific Plan identifies land uses permitted and conditionally permitted on the ground floor fronting Monterey Road or Third Street in the -GF overlay zone. These land use regulations replace the land use regulations of the underlying base district for ground floor land uses. Ground floor land uses not specifically identified in Figure 8 in the Downtown Specific Plan ~~Table 18.30-1~~ as permitted or conditionally permitted are prohibited in the GF overlay zone unless allowed by the Planning Commission in accordance with ~~Paragraph 3~~ Paragraph 3 (Unlisted Uses) below.

~~TABLE 18.30-1 PERMITTED LAND USES IN THE GROUND FLOOR (-GF) OVERLAY ZONE~~

Key	
P —Permitted Use	
A —Administrative Use Permit required	
C —Conditional Use Permit required	
Land Use	Permit Required
Arts and Crafts Gallery	P
Banks and Financial Institutions	P
Cinemas and Theaters	P
Commercial Recreation, Indoor	C
Commercial Service	P
Convenience Markets	C
Medical Offices	A
Bars and Nightclubs	P
Personal Services	A
—Dry Cleaners	C
Professional Offices	A
Restaurants	P
Retail	P

2. **Upper Floor Uses.** Land uses permitted and conditionally permitted in upper floor tenant spaces in the -GF overlay zone shall be the same as in the underlying base zone.

3. **Unlisted Uses.** Land uses not listed as permitted or conditionally permitted in Figure 8 in the Downtown Specific Plan ~~Table 18.30-1~~ may be allowed with a Conditional Use Permit if the Planning Commission finds the unlisted land use is equivalent to a use permitted or conditionally permitted in the -GF overlay zone in accordance with Section 18.08.040.B (Unlisted Land Uses).

E. Administrative Use Permits in the Ground Floor (-GF) Overlay Zone

1. **Purpose.** Administrative Use Permits shall be used to allow ground floor office and personal service uses in the GF overlay zone upon finding that the retail market is not sufficiently strong to accommodate land uses permitted by-right in the GF overlay zone.
2. **Application Requirements.** Requirements for the submittal, review, and action on an Administrative Use Permit application shall be as described in Section 18.108.020 (Administrative Use Permits) and Chapter 18.104 (Common Permit Requirements) unless otherwise specified in this section.
3. **Application Submittal Requirements.** Administrative Use Permit applications shall contain the information and materials required by the Community Development Director, including the following:
 - a. Statement of proposed operations, including but not limited to number of employees, proposed hours of operation, and if applicable, how the personal service use relates to the retail use within the tenant space; and
 - b. Materials which demonstrate that the subject space in the building has been advertised for lease to retail tenants for at least six months, but the owner has been unable to locate a suitable retail tenant at market rates.
4. **Findings.** To approve an Administrative Use Permit, the Community Development Director shall make all of the findings in Section 18.108.020.E (Findings for Approval) plus one or more of the following additional findings:
 - a. The subject space in the building has been advertised for lease to retail tenants for at least six months days, but the owner has been unable to locate a suitable retail tenant at market rates; or
 - b. The vacancy rate for commercial space exceeds five percent in the -GF overlay zone combining district; or
 - c. For personal service uses, the applicant has demonstrated that the use is ancillary to a retail use within the tenant space and provides a continuity of display window visual interest.
5. **Conditions of Approval.** The Community Development Director may impose conditions on the approval of an Administrative Use Permit to achieve consistency with the General Plan, Zoning Code, or Downtown Specific Plan. Conditions may include, but are not limited to, requirements that the City and/or applicant:

- a. Review the use at a future time or upon certain triggering events;
 - b. Set an expiration date for the administrative use permit at some future time or upon certain triggering events;
 - c. Make specific site maintenance and/or improvements;
 - d. Maintain the personal service use as ancillary to the retail use with the same tenant space and maintain the visual interest of display window with the retail component;
 - e. Install and maintain landscaping,
 - f. Maintain safe vehicular ingress, egress, and traffic circulation; and
 - g. Comply with development schedules or time limits for performance or completion of tenant improvements.
6. **Permit Duration.** Approval of an Administrative Use Permit for ground floor uses in the -GF overlay zone shall be valid for three years from the date of approval unless an extension is granted in accordance with Subsection 7 below.
7. **Permit Extensions.**
- a. An Administrative Use Permit for ground floor uses in the GF overlay zone may be extended one or more times by the Community Development Director for up to up to three years for each extension.
 - b. An application for an extension may be submitted in writing no sooner than nine months from the expiration date of the previously approved Administrative Use Permit.
 - c. The application submittal, review, and approval process shall be the same as for the Administrative Use Permit that originally authorized the ground floor use.
- F. **Development Standards.** The development standards that apply in the -GF overlay zone shall be the same as the underlying base zone.

18.30.030 – Downtown Specific Plan Overlay Zone

► *Note: This section is new.*

- A. **Purpose.** The Downtown Specific Plan (DTSP) overlay zone identifies areas where the requirements of the Downtown Specific Plan apply.
- B. **Applicability.** The DTSP overlay zone applies to parcels within the boundary of the Downtown Specific Plan as shown on the Zoning Map.
- C. **Effect of Downtown Specific Plan Overlay.**
 - 1. All proposed land uses and development within the DTSP overlay shall comply with the requirements of the Downtown Specific Plan.

2. In the case of conflict between the Downtown Specific Plan and the requirements of the Zoning Code, the Downtown Specific Plan shall govern.

18.30.040 – Hillside Combining District

► *Note: This section makes the following changes to the existing Zoning Code: removes exception from steep slope building restrictions for previously established lots in existing Section 18.44.030; removes existing Section 18.44.110 (Significant Tree Protection), which applies to all areas, not just the Hillside overlay; prohibits development within 80 feet of ridgeline.*

A. Purpose of Hillside Combining District. The purpose of the Hillside (H) combining district is to allow for the orderly development of hillside areas while preserving significant environmental features and protecting public safety in geologically unstable areas.

B. Applicability.

1. The H combining district applies to all areas within the City having an average slope of ten percent or greater.
2. A planned development overlay zoning district shall be required for all subdivisions in with an H combining district where five or more lots are proposed.

C. Development Standards.

1. Building Restrictions on Steep Slopes.

- a. Buildings, private streets, and driveways may not be constructed on slopes greater than 20 percent except as allowed by subparagraph b below.
- b. Minor encroachments onto slopes greater than 20 percent may be allowed when the review authority finds that the proposed encroachment will not conflict with the purpose and intent of the H combining district.

2. Minimum Lot Area.

- a. The minimum lot size in the H combining district shall not be less than "A" as determined by the formula:

$$A = S \times 2,000$$

Where "S" is the average slope of the lot to be created in terms of percent.

- b. For lots with an average slope greater than 50 percent, the minimum lot size is 5 acres.
- c. Lots with an average slope of ten percent or greater may be created in exception to the slope/area formula above if the lots to be created contain an area of slope less than ten percent which is equal to or greater than the minimum lot size required by the underlying zone. In such a case, a deed restrictions must be

recorded for such lots which restrict building to the area in which the average slope is ten percent or less.

3. Calculating Ground Slope.

- a. The average ground slope shall be calculated using the following formula:

$$S = 0.00229IL/A$$

Where:

S= Average ground slope in percent

I=Contour interval in feet

L=Combined length of the contour lines in feet

A=The gross area in acres of the parcel or lot

- b. Measurements along contours shall be made at contour intervals not to exceed ten feet, and a horizontal map scale of one inch equals two hundred feet or larger.

4. Land Modification Restrictions.

- a. Areas on a lot with a slope exceeding 20 percent may not be altered by grading, altering natural features, removing natural vegetation, or by any activity related to the preparation of the lot for development.
- b. The Planning Commission may allow exceptions to the land modification restrictions above to protect the public health, safety, and welfare. Exceptions may be granted to:
- (1) Install fire trails;
 - (2) Remove of poisonous or noxious vegetation;
 - (3) Remove or thin vegetation as part of a fire-protection program approved by the Fire Chief;
 - (4) Abate geologic or seismic hazard; or
 - (5) Protect public safety through other methods as approved by the Planning Commission.

5. **Open Space Requirements.** Table 18.30-~~12~~ identifies the minimum percentage of lot area to remain in open space with no grading or terrain alteration.

TABLE 18.30-~~21~~: OPEN SPACE REQUIREMENTS

Average Ground Slope (Percent)	Minimum Percent of Lot Area to Remain in Open Space
12.5 to 14.9	32.5%
15.0 to 17.4	40.0%

17.5 to 19.9	47.5%
20.0 to 22.4	55.0%
22.5 to 24.9	62.5%
25.0 to 27.4	70.0%
27.5 to 29.9	77.5%
30.0 and above	85.0%

6. One Dwelling Unit Allowed Per Lot.

- a. If no portion of a lot contains slopes of less than twenty percent, and the lot is a legally-established lot of record, one dwelling unit may be constructed on the lot.
- b. Development when allowed by this section shall conform with the recommendations in the engineering geologic or geotechnical report prepared by a qualified engineer geologist as required by the provisions of Chapter 18.70 (Geologic Hazards) and any other conditions of approval or mitigation measures adopted for the proposed project.

7. Ridgeline Development. Buildings are prohibited within 80 feet of a ridgeline unless the review authority for the proposed project finds that:

- a. There are no other feasible locations on the lot other than the proposed ridgeline building site which can accommodate the building;
- b. The proposed development is consistent with all other requirements of the applicable zone;
- c. The applicant has attempted a transfer of development credits (TDC) in accordance with Subsection F (Transfer of Development Credits) as an alternative to building on the proposed ridgeline site; and
- d. The applicant has exhausted all possible avenues to accommodate development in area away from the proposed ridgeline building site.

8. Cut-and-Fill Slopes. Cut-and-fill slopes shall not be steeper than two horizontal to one vertical (2:1) unless stabilized by a retaining wall or cribbing, as approved by the Building Official.

9. Erosion-Control Plan. The City shall approve an erosion-control plan prior to any physical development within the H combining district. The plan shall meet the standards contained in Municipal Code Chapter 13.30 – Urban Storm Water Quality Management & Discharge Control.

D. El Toro Mountain Open Space Preservation

1. The following hillside areas of El Toro Mountain shall be preserved as open space to the maximum extent possible:
 - a. Areas above the 600-foot elevation in Llagas Valley and Paradise Valley; and
 - b. Areas above the 500-foot elevation in all other areas.
2. Subdivisions proposed in areas specified above shall include open-space easement dedications to guarantee the permanent preservation of open space.
3. Prior to approving development in the areas specified above, the review authority shall find that the applicant made every reasonable effort to avoid the development in these areas, including a transfer of development credits (TDC) and/or the establishing of a Planned Development (PD) overlay.

E. Transfer of Development Credits. This section allows for the transfer development credits (TDCs) from "transferor sites" in areas where development is restricted by the H combining district to "recipient sites" in other areas of the city authorized to receive TDCs. The City Council may from time to time authorize by resolution a TDC from one lot to another lot, where such authorization is found to be consistent with the General Plan and this section.

1. **General Standards.**
 - a. **Permitted Recipient Sites.** Zones in which an increase in the number of dwelling units are permitted are restricted to the residential zones listed in Chapter 18.16 (Residential Detached Zoning Districts).
 - b. **Number of Units on a Site.** The number of dwelling units permitted on a site may not exceed ten percent of the maximum residential development credits transfer, exclusive of density bonuses provided by other sections of this title.
 - c. **Maximum Density Bonus.** The maximum density bonus on any site shall not exceed 25 percent, including affordable housing and TDC density bonuses.
 - d. **Environmental Study.** An environmental study shall be prepared to determine the carrying capacity of the property from which development credits are being transferred. If environmental findings determine that the site, or a portion thereof, is unbuildable due to environmental constraints, the development credits to be transferred shall be reduced accordingly, prior to determining the number of units permissible under the slope-density formula.
 - e. **Minimum Area.** The site to which the TDC is proposed shall be no less than one acre.
 - f. **Setback Requirements.** All setback requirements of the more restrictive district found along the perimeter of the site shall apply to perimeter yards on the site to which the transfer of development credits is proposed, unless the site is zoned for PD zoning.

- g. **Calculation of TDC Credits.** TDCs shall be calculated in accordance with the slope-density regulations of this section, base district minimum lot sizes and this section.

- (1) In all hillside areas of the City, with the exception of El Toro Mountain, the number of TDCs shall be determined as provided in Section 18.30.040.D (El Toro Mountain Open Space Preservation).
- (2) On El Toro Mountain, the number of TDCs available to property within the city limits shall be twice that determined as provided in Section 18.30.040.C.2 (Minimum Lot Area). The number of transferable development credits available to property on El Toro Mountain which is outside the city limits shall be twice that allowed by the Zoning Ordinance of Santa Clara County. The calculation of transferable development credits for El Toro Mountain shall be as follows:

(Number of Acres/Minimum Lot Size) x 2=Number of transferable development credits

- (3) The number of TDCs available to properties on El Toro Mountain above that allowed to other hillside areas of the city may only be used for transfer to other properties of slopes less than twenty percent and may not be used to increase on-site development potential.
- (4) In the calculation of TDCs, a fraction occurring at the end of a calculation which is 0.5 or larger shall be considered a full development credit. The City Council may also exclude from calculation any existing dwelling and appurtenant structures on the site to be preserved.

2. **Application.** An applicant for a TDC shall contain the following information and materials:

- a. A title report and any other documentation disclosing all existing interests or obligations against the transferor site property to be affected by the open space easement. If other interests exist, a subordination agreement (in a recordable form) acknowledging the reservation of the City of Morgan Hill's open space easement claim shall be submitted with the title report.
- b. When known, the location and land area of the recipient site to which such credits are to be transferred, the projected total number of dwelling units that would result on the recipient site from such a transfer, and a statement of the character of the projected housing development.
- c. A legal description of the open space to be preserved on the transferor site by the transfer, accompanied by an open space (scenic) easement suitable for recordation and the applicable open-space policy to be implemented by the transfer.

- d. The location, site area, and related residential development credits of the transferor site which the applicant proposes to transfer.
 - e. Where applicable, the number of building allotments granted to the recipient site under the Residential Development Control System (RDCS).
3. **City Action.** Upon approval of the Planning Commission and the City Council of a TDC application, the City Clerk shall issue a TDC certificate to the applicant in a form approved by the City Manager. The following actions must be taken prior to these development credits being effectively conveyed to and utilized by the recipient property:
- a. Approval by the Planning Commission of a detailed site plan of the recipient site to which the development credits are to be transferred;
 - b. Where recipient site is known, execution and recordation with the County Recorder's Office of an instrument legally sufficient both in form and content to effect conveyance of the TDC from the transferor to the recipient site. Such instrument shall specifically set forth the credits to be conveyed and the resultant total residential development credits assignable to the recipient site;
 - c. Execution and recordation with the County Recorder's office of an instrument legally sufficient in form and content to effect conveyance of a permanent open space easement in the transferor site dedicated to the City. Such open space easement shall be unencumbered by any prior interests or, if so encumbered, shall be accompanied by and recorded together with subordination agreement with evidence that all persons or entities having any interest in the transferor site have acknowledged the creation and transfer of development credits, consented to the terms and conditions of the open space easement, and waived the priority of any rights or claims they may have in the transferor site. Recordation of the executed open space easement and accompanying subordination agreement shall serve as notice of the dedication of open space in the transferor site and shall be incorporated in the deeds of the transferor site; and
 - d. Other requirements as established by the City Council.

18.30.050 – Planned Development Combining District

-
- *Note: This section makes the following changes to the existing Zoning Code: limits use of PD combining district to properties 1 acre or more; eliminates requirement to use PD for mixed use projects; requires Preliminary Review; and establishes new findings, including requirement that project contributes a significant public benefit.*
-

- A. Purpose of the Planned Development Combining District.** The purpose of the Planned Development (PD) combining district is to allow for high quality development that deviates from standards and regulations applicable to base zoning districts in Morgan Hill. The PD combining district is intended to promote creativity in building design,

flexibility in permitted land uses, and innovation in development concepts. The PD combining district provides land owners with enhanced flexibility to take advantage of unique site characteristics and develop projects that will provide public benefits for residents, employees, and visitors.

B. Where Allowed. The PD combining district may be applied to any property in Morgan Hill with an area of 1 acre or more.

C. Permitted Land Uses.

1. Permitted land uses in each PD combining district shall conform to the PD Master Plan that applies to the property.
2. Permitted land uses may deviate from the land use regulations of the applicable base zoning district provided the PD combining district allows only those land uses permitted in the applicable General Plan land use designation.

D. Development Standards.

1. Development standards (e.g., height, setbacks, building coverage) for each PD combining district shall be established in the applicable PD Master Plan.
2. Development standards may deviate from development standards in the applicable base zoning district except that the maximum permitted floor area ratio and residential density may not exceed maximums established in the General Plan for the applicable land use designation.

E. Required Approvals.

1. **PD Master Plan and Zoning Map Amendment.** Establishment of a PD combining district requires approval of a PD Master Plan and a Zoning Map amendment.
2. **Design Review.** A proposed development must receive a Design Permit as required by Section 18.108.040 (Design Permits). All development and land uses within a PD combining district shall be consistent with the approved PD Master Plan.

F. Preliminary Review.

1. **When Required.** Prior to submittal of an application for a PD rezoning and PD Master Plan, an applicant must receive preliminary input from the Planning Commission on the proposed Planned Development project.
2. **Application.** A Preliminary Review application for a proposed Planned Development project shall be submitted with the ~~Community Development~~ Development Services Department in accordance with Chapter 18.104 (Common Permit Requirements). The application shall include, at a minimum, the following information and materials:
 - a. A statement describing the proposed project and how it complies with the findings required for the approval of a Planned Development project in Section 18.30.050.H.7 (Findings).

- b. Project plans, diagrams, and graphics as needed to illustrate the overall development concept, including proposed land uses, buildings, circulation, open space, and any other significant elements in the project.
- 3. **Public Hearing.** The Planning Commission shall consider the Preliminary Review application and a public hearing noticed in accordance with Section 18.104.090 (Notice of Hearing).
- 4. **Preliminary Input.**
 - a. The Planning Commission shall provide preliminary input on project compliance with findings required for the approval of a Planned Development project in Section 18.30.050.H.7 (Findings).
 - b. Planning Commission input shall not be construed as a recommendation for approval or denial of the project. Any recommendation to the applicant is advisory only and shall not be binding on either the applicant or the City.

G. Planned Development Rezoning.

- 1. **General Procedures and Requirements.** Establishing a PD combining district requires City Council approval of a Zoning Map amendment in accordance with Chapter 18.114 (Zoning Code Amendments). All requirements for Zoning Map Amendments in Chapter 18.114 apply to the establishment of a PD combining district.
- 2. **Timing.** The City Council shall act on the Zoning Map Amendment concurrently with the PD Master Plan. A PD combining district may be established only with concurrent approval of a PD Master Plan.
- 3. **Reference to PD Master Plan.** The ordinance adopted by the City Council establishing a PD combining district shall reference the PD Master Plan approved concurrently with the Zoning Map Amendment.

H. PD Master Plans.

- 1. **Review Authority.** The City Council takes action on PD Master Plan applications following recommendation from the Planning Commission.
- 2. **Timing.** A PD Master Plan application shall be submitted within one year of Preliminary Review for the proposed project. If an application is not submitted within one year of Preliminary Review, the applicant shall compete a second Preliminary Review process prior to submitting the PD Master Plan application.
- 3. **Application Submittal and Review.**
 - a. PD Master Plan applications shall be filed and reviewed in compliance with Chapter 18.104 (Common Permit Requirements). The application shall include the information and materials required by the ~~Community Development~~Development Services Department and the information required by Paragraph 4 (Application Materials) below.

- b. If the property is not under a single ownership, all owners must join the application, and a map showing the extent of ownership shall be submitted with the application.
 - c. It is the responsibility of the applicant to provide evidence in support of the findings required by Paragraph 7 (Findings) below.
4. **Application Materials.** Applications for approval of a PD Master Plan shall include the following information and materials:
- a. **Project Description.** A written description of the project proposed within the PD combining district. The project description shall include a narrative statement of the project objectives and a statement of how the proposed project will comply with General Plan goals and policies for the applicable land use designation. An overview of the proposed land use, densities, open space, and parking should be included in the project description.
 - b. **Community Benefits.** A description of how the proposed development is superior to development that could occur under the standards in the existing zoning districts, and how it will achieve a substantial public benefits as defined in Paragraph 8 below.
 - c. **Site Map.** Maps depicting the existing topography, on-site structures and natural features, mature trees, and other significant vegetation and drainage patterns. The map shall show the proposed PD combining district boundaries and all properties within 500 feet of the site boundary.
 - d. **Concept Plan.** An overall diagram of the project concept. This diagram shall illustrate the overall development concept, including proposed land uses, buildings, circulation, open space, and any other significant elements in the proposed project. Phases shall be clearly indicated if multiple phases are proposed.
 - e. **Land Use.** A map showing the location of each land use proposed within the site, including open space and common areas. The land use map shall be accompanied by a narrative description of permitted land uses, allowable accessory uses, and uses allowed by-right or with a Conditional Use Permit.
 - f. **Subdivision Map.** If the project involves the subdivision of land, a tentative parcel map or tentative map required by Title 17 (Subdivisions) of the Morgan Hill Municipal Code.
 - g. **Circulation.** A map and descriptions of the major circulation features within the site including vehicular, bicycle, pedestrian facilities; traffic flow of internal traffic; and existing and proposed public streets and sidewalk improvements.
 - h. **Public Facilities and Open Space.** The amount (in square feet or acres) and percentage of site area that will be dedicated for all types of open space,

including proposed recreational facilities and amenities; and any public facilities, including public utility easements, public buildings and public land uses.

- i. **Development Standards.** All development standards that apply within the project, including:
 - (1) Density and/or intensity;
 - (2) Minimum lot size and dimensions;
 - (3) Maximum building coverage;
 - (4) Minimum setbacks;
 - (5) Maximum building heights;
 - (6) Signs;
 - (7) Landscaping;
 - (8) On-site parking; and
 - (9) Other items as deemed appropriate by the Planning Commission and City Council.

5. **Planning Commission Review and Recommendation.**

- a. The Planning Commission shall hold a public hearing on the PD Master Plan application as required by Chapter 18.104 (Common Permit Requirements).
- b. The Planning Commission shall recommend to the City Council the approval, approval with modification, or denial of the PD Master Plan application. The recommendation shall be based on the findings in Paragraph 7 (Findings) below.

6. **City Council Review and Decision.** Upon receipt of the Planning Commission's recommendation, the City Council shall conduct a public hearing and either approve, approve in modified form, or deny the PD Master Plan. The City Council may approve the application only if all of the findings in Paragraph 7 (Findings) below can be made.

7. **Findings.** The City Council may approve an application for a PD Master Plan if all of the following findings can be made:

- a. The proposed development is consistent with the General Plan, Zoning Code and any applicable specific plan or area plan adopted by the City Council.
- b. The proposed development is superior to the development that could occur under the standards applicable in the existing zoning districts.
- c. The proposed project will provide a substantial public benefits as defined in Paragraph 8 (Substantial Public Benefit Defined) below. The public benefit provided shall be of sufficient value as determined by the Planning Commission to justify deviation from the standards of the zoning district that currently applies to the property.

- d. The site for the proposed development is adequate in size and shape to accommodate proposed land uses.
 - e. Adequate transportation facilities, infrastructure, and public services exist or will be provided to serve the proposed development.
 - f. The proposed development will not have a substantial adverse effect on surrounding property and will be compatible with the existing and planned land use character of the surrounding area.
 - g. Findings required for the concurrent approval of a Zoning Map Amendment can be made.
8. **Substantial Public Benefit Defined.** When used in this section, “substantial public benefit” means a project feature not otherwise required by the Zoning Code or any other provision of local, state, or federal law that substantially exceeds the City’s minimum development standards and significantly advances goals of the General Plan. A project must include one or more substantial public benefits to be rezoned as a planned development. The public benefit provided shall be of sufficient value as determined by City Council to justify deviation from the standards of the zoning district that currently apply to the property. Examples of substantial public benefits include but are not limited to:
- a. Housing that is affordable to lower-income households.
 - b. Public plazas, courtyards, open space, and other public gathering places that provide opportunities for people to informally meet and gather.
 - c. New or improved pedestrian and bicycle pathways that enhance circulation within the property and connectivity to the surrounding neighborhood.
 - d. Green building and sustainable development features that substantially exceed the city’s minimum requirements.
 - e. Preservation, restoration, or rehabilitation of a historic resource.
 - f. Increased transportation options for residents and visitors to walk, bike, and take public transit to destinations and reduce greenhouse gas emissions.
 - g. Publicly accessible parks and open space beyond the minimum required by the city or other public agency.
 - h. Habitat restoration and or protection of natural resources beyond the minimum required by the city or other public agency.
9. **Conditions of Approval.** The City Council may attach conditions of approval to a PD Master Plan to achieve consistency with the General Plan, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.
- I. **Effect of PD Master Plan.** All future development and land uses within a PD combining district shall comply with the approved PD Master Plan.

1. **Land Uses.** New land uses may be added in a PD combining district provided the PD Master Plan identifies the use as a permitted or conditionally permitted land use. Establishing a land use not specifically permitted by the PD Master Plan would require an amendment to the PD combining district.
2. **Structures.** New structures may be added in a PD combining district provided the structures comply with development standards established in the PD Master Plan (e.g., height, setback, floor area ratio). Design Review consistent with Section 18.108.040 (Design Permits) is required for all new development that was not approved with the PD Master Plan. Development that exceeds development standards in the PD Master Plan is allowed only with an amendment to the PD combining district.

18.30.060 – Active Fault Surface Rupture Combining District

- A. Purpose.** The purpose of the Active Fault Surface Rupture (AFSR) combining district is protect the public from hazards caused by development located across active faults and to implement requirements of the Alquist-Priolo Earthquake Fault Zoning Act and any successor statute or regulations (Public Resource Code Section 2621 et seq.).
- B. Definitions.** For the purposes of this section, certain terms are defined as follows:
 1. "Active fault" is any fault which has had surface displacement within Holocene time (about the last eleven thousand years), hence constituting a potential hazard to structures that might be located across it.
 2. "Fault trace" is the intersection of a fault surface with the earth's surface and is usually represented as a line on a map.
 3. "Official Earthquake Fault Zone" are those areas delineated on the most current versions of maps issued by the California State Geologist, along faults deemed "sufficiently active and well-defined" pursuant to the Alquist-Priolo Earthquake Fault Zone Act (Public Resources Code Section 2621 et seq.), and the policies and criteria of the State Mining and Geology Board and any succeeding statute or regulation.
 4. "Project," as used in this section, means:
 - a. Any subdivision of land which is subject to the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code, and which contemplates the eventual construction of structures for human occupancy; and
 - b. Structures for human occupancy.
 - c. "Project" does not include repairs, alterations or additions to any structure within a fault zone which do not exceed fifty percent of the value of the structure or which is a conversion of an apartment complex into a condominium.

5. "Qualified geologist" is a certified engineering geologist pursuant to the California Geologist and Geophysicist Act (Business and Professions Code Section 7800, et seq.).
6. "Structures for human occupancy" are any structure used or intended for supporting or sheltering any use or occupancy, which is expected to have a human occupancy rate of more than two thousand person-hours per year.

C. Prohibited Development.

1. A structure for human occupancy identified as a project within the AFSR Combining District shall not be:
 - a. Located across the trace of an active fault; or
 - b. Located within 50 feet of an active fault unless proven not to be underlain by active branches of the fault by a geologic report prepared by a qualified geologist.
2. The change in use or character of occupancy of a building or structure from one not used for human occupancy to one that is used for human occupancy is prohibited unless the building or structure complies with this chapter.

D. Geologic Report.

1. **Need for Report.** For proposed projects located in the AFSR combining district, the applicant shall submit to the City a geologic report prepared by a qualified geologist. The applicant's geologist shall discuss the scope of work with a qualified geologist employed or retained by the City (reviewing geologist) prior to performing the investigation. The City shall file with the State Geologist one copy of all completed geologic reports within 30 days following the Community Development Director's acceptance of the report as complete.
2. **Waiver.** The Community Development Director may waive the requirement to prepare a geologic report in the following circumstances:
 - a. If the Director determines that no undue fault hazard exists based on the advice and recommendation of a qualified geologist employed or retained by the City, the Director may set forth such determination in writing, citing the reasons for a waiver. Any waiver under this subsection shall be allowed only with approval of the State Geologist.
 - b. Notwithstanding paragraph (a) above, for a project consisting of single-family wood-frame or steel-frame dwelling not exceeding two stories when that dwelling is not part of a development of four or more dwellings, the Director may waive the requirement for a geologic report upon determining that no undue fault hazard exists based on the advice and recommendation of the qualified geologist employed or retained by the City.
3. **Preparation.** The geologic report required by this section shall be prepared and based on an investigation directed to the problem of potential surface displacement

through the project site, and shall identify the location, recency, and nature of faulting that may have affected the project site in the past and may affect the project in the future.

E. Appeals. Decisions of the Community Development Director and Planning Commission made pursuant to this section may be appealed in accordance with Chapter 18.112 (Appeals)

F. Additional Regulations.

1. In addition to the regulations set forth in this section, the ~~Community Development~~Development Services Department, with the consent of the City Council, may adopt such standards or regulations as necessary to protect the public from the effects of surface rupture along active faults in official earthquake fault zones.
2. These standards or regulations may be more stringent than, but shall not be in conflict with, the provisions of any policies and criteria adopted by the State Mining and Geology Board pursuant to Section 2623 et seq. of the Public Resources Code of the state.
3. Where more stringent standards or regulations have been adopted, the policies and criteria adopted from time to time by the State Mining and Geology Board shall apply within the City.

G. Consistency with Other Regulations.

1. Nothing in this chapter shall be construed to relieve any person of requirements imposed by other sections of the Morgan Hill Municipal Code, the California Environmental Quality Act (CEQA), or any other applicable provision of y state law.
2. In case of conflict between this section and other requirement of the Morgan Hill Municipal Code or state law, the more restrictive shall govern.

PART 3

Citywide Standards

Chapter 18.40 – Alternative Standards For Medium Density Residential Development.....40-1

- 18.40.010 – Purpose
- 18.40.020 – Applicability
- 18.40.030 – Design Permit Required
- 18.40.040 – Permitted Housing Types
- 18.40.050 – Development Standards
- 18.40.060 – Standards for all Housing Types
- 18.40.070 – Design Criteria for Small Lot Single-Family Subdivisions
- 18.40.080 – Special Criteria for Townhome Developments
- 18.40.090 – Special Criteria for Courtyard Home Development
- 18.40.100 – Special Criteria for Condominium Developments
- 18.40.110 – Special Criteria for Multi-Family Development

Chapter 18.44 – Accessory Structures and Uses..... 44-1

- 18.44.010 – Purpose
- 18.44.020 – Accessory Structures in all Zoning Districts
- 18.44.030 – Accessory Structures in Residential Zoning Districts
- 18.44.040 – Accessory Structures in Non-Residential Zoning Districts
- 18.44.050 – Accessory Uses

Chapter 18.48 – Affordable Housing..... 48-1

- 18.48.010 – Purpose
- 18.48.020 – Definitions
- 18.48.030 – Eligibility
- 18.48.040 – Density Bonuses
- 18.48.050 – Concessions and Incentives
- 18.48.060 – Additional Density Bonuses
- 18.48.070 – Affordability Requirements

Chapter 18.52 – Fences and Walls..... 52-1

- 18.52.010 – Purpose and Applicability
- 18.52.020 – Required Permits and Approvals
- 18.52.030 – Measurement of Fence and Wall Height
- 18.52.040 – Height Limits
- 18.52.050 – Exceptions to Height Limits

- 18.52.060 – Materials
- 18.52.070 – Nonconforming Fences and Walls

Chapter 18.56 – Height, Setback and Lot Coverage Exceptions..... 56-1

- 18.56.010 – Purpose
- 18.56.020 – Height Exceptions
- 18.56.030 – Setback Exceptions
- 18.56.040 – Lot Coverage Exceptions

Chapter 18.60 – Historic Resources.....60-1

- 18.60.010 – Purpose
- 18.60.010 – Applicability
- 18.60.020 – Definitions
- 18.60.030 – Identification of Historical Resources
- 18.60.040 – Local Register Designation Process
- 18.60.050 – Adopted Survey List Designation Process
- 18.60.060 – Determining if Historical Alterations, Demolition or Relocation Permits are Required
- 18.60.070 – Historical Alterations Permit
- 18.60.080 – Historical Resource Demolition or Relocation Permit
- 18.60.090 – Archaeologically Sensitive Areas
- 18.60.100 – Maintenance and Repair of Historic Resources
- 18.60.110 – Appeals
- 18.60.120 – Enforcement and Penalties
- 18.60.130 – Preservation Incentives

Chapter 18.64 – Landscaping..... 64-1

- 18.64.010 – Purpose
- 18.64.020 – Applicability
- 18.64.030 – Water Conservation in Landscaping Ordinance
- 18.64.040 – Landscape Plans
- 18.64.050 – Required Landscape Areas
- 18.64.060 – General Landscape Requirement
- 18.64.070 – Landscaping Maintenance and Enforcement

Chapter 18.68 – Nonconforming Uses and Structures..... 68-1

- 18.68.010 – Purpose
- 18.68.020 – Applicability
- 18.68.030 – General
- 18.68.040 – Nonconforming Parcels
- 18.68.050 – Nonconforming Use of Land
- 18.68.060 – Nonconforming Use of Structures
- 18.68.070 – Nonconforming Structures

18.68.080 – Findings

Chapter 18.70 – Geologic Hazards..... 70-1

18.70.010 – Purpose

18.70.020 – Definitions

18.70.030 – City Geologic Map Modification

18.70.040 – Geologic Clearance

18.70.050 – Geologic Evaluations

18.70.060 – Waiver of Geologic and Seismic Hazards Investigation Report
Requirement

18.70.070 – Owner Obligations

18.70.080 – Additional Regulations

18.70.090 – Consistency with Other Regulations

Chapter 18.72 – Parking and Loading..... 72-1

18.72.010 – Purpose

18.72.020 – Applicability

18.72.030 – Required Parking Spaces

18.72.040 – General Requirements

18.72.050 – On-Site Parking Alternatives

18.72.060 – Parking Design and Development Standards

18.72.070 – Parking Lot Landscaping

18.72.080 – Bicycle Parking

18.72.090 – On-Site Loading

Chapter 18.76 – Performance Standards..... 76-1

18.76.010 – Purpose

18.76.020 – Applicability

18.76.030 – General Prohibitions

18.76.040 – Air Contaminants

18.76.050 – Fire and Explosive Hazards

18.76.060 – Glare

18.76.070 – Hazardous Materials

18.76.080 – Liquid and Solid Wastes

18.76.090 – Noise

18.76.100 – Odors

18.76.110 – Radioactivity

18.76.120 – Electromagnetic Interference

18.76.130 – Vibration

Chapter 18.80 – Recreational Vehicle Parks..... 80-1

18.80.010 – Purpose

- 18.80.020 – Definitions
- 18.80.030 – Compliance with State Law
- 18.80.040 – Permits Required
- 18.80.050 – Occupancy Requirements
- 18.80.060 – Development Standards

Chapter 18.84 – Accessory Dwelling Units..... 84-1

- 18.84.010 – Purpose
- 18.84.020 – Permits Required
- 18.84.030 – Permitted Zoning Districts
- 18.84.040 – Site and Design Standards
- 18.84.050 – Deed Restrictions

Chapter 18.88 – Signs.....88-1

- 18.88.010 – Purpose
- 18.88.020 – Definitions
- 18.88.030 – Required Permits
- 18.88.040 – Signs Allowed Without Permits
- 18.88.050 – Prohibited Signs
- 18.88.060 – General Standards
- 18.88.070 – Adjustments to Sign Standards
- 18.88.080 – Sign Standards for Non-Residential Zones
- 18.88.090 – Sign Standards for Residential and Open Space Zones
- 18.88.100 – Standards for Specific Sign Types
- 18.88.110 – Master Sign Program
- 18.88.120 – Temporary Signs
- 18.88.130 – Nonconforming Signs
- 18.88.140 – Violations and Enforcement

Chapter 18.92 – Supplemental Standards.....92-1

- 18.92.010 – Purpose
- 18.92.020 – Adult Businesses
- 18.92.030 – Convenience Markets
- 18.92.040 – Drive-Through Facilities
- 18.92.050 – Emergency Shelters
- 18.92.060 – Home Occupations
- 18.92.070 – Interim Uses in the MU-D and MU-F Zoning Districts
- 18.92.080 – Intersection Sight Distance
- 18.92.090 – Medical Marijuana
- 18.92.100 – Mini-Storage
- 18.92.110 – Natural Resource and Hazard Setbacks
- 18.92.120 – Outdoor Sales and Displays
- 18.92.130 – Residential Transition Standards

- 18.92.140 – Rooftop Solar Energy Systems
- 18.92.150 – Temporary Uses and Structures

Chapter 18.96 – Wireless Communication Facilities.....96-1

- 18.96.010 – Purpose and Legislative Intent
- 18.96.020 – Definitions
- 18.96.030 – Applicability and Exemptions
- 18.96.040 – Required Permits
- 18.96.050 – Application Submittal and Review; Post-Approval Permit Requirements
- 18.96.060 – Section 6409(a) Modifications
- 18.96.070 – Preferred Siting and Location
- 18.96.080 – Development Standards
- 18.96.090 – Operation and Maintenance Requirements
- 18.96.100 – Limited Waivers
- 18.96.110 – Severability

– This Page is Intentionally Blank –

Chapter 18.40 – ALTERNATIVE STANDARDS FOR MEDIUM DENSITY RESIDENTIAL DEVELOPMENT

Sections:

- 18.40.010 – Purpose
- 18.40.020 – Applicability
- 18.40.030 – Design Permit Required
- 18.40.040 – Permitted Housing Types
- 18.40.050 – Development Standards
- 18.40.060 – Standards for all Housing Types
- 18.40.070 – Design Criteria for Small Lot Single-Family Subdivisions
- 18.40.080 – Special Criteria for Townhome Developments
- 18.40.090 – Special Criteria for Courtyard Home Development
- 18.40.100 – Special Criteria for Condominium Developments
- 18.40.110 – Special Criteria for Multi-Family Development

► *Note: This chapter carries forward existing Chapter 18.29, adopted in 2015. No substantive changes have been made to existing Chapter 18.29 except to treat this chapter as an alternative to the RAL and RAM standards in Chapter 18.18 and as noted below.*

18.40.010– Purpose

The purpose of this chapter is to provide alternative development standards for medium density residential development including single-family detached and attached housing units on small lots (less than 7,000 square feet). The intent of these standards is to:

- A. Ensure that small lot development blends with the surrounding community and is compatible with neighborhoods, is sensitive to its context, and incorporates appropriate amenities and high-quality design;
- B. Implement residential development standards to enhance the appearance of the surrounding neighborhood and be well integrated with existing homes nearby;
- C. Discourage abrupt transitions in height, mass, and prevailing setback patterns and separations caused by high, solid walls and blank building faces;
- D. Recognize small lot and medium density development as a more efficient form of land use than lower density development, a means of reducing the environmental impacts of housing development, and a way to create more walkable neighborhoods;
- E. Guide new development while accommodating creativity, innovation, and flexibility in housing design; and
- F. Implement Morgan Hill Housing Element policies which encourage greater housing

diversity and affordability in Morgan Hill.

18.40.020– Applicability

► *Note: This section deletes existing Section 18.29.020.C regarding fiscal year 2015-2016 standards and adds statement that that this chapter is an alternative to standards that generally apply in the RAL and RAM zoning districts.*

- A. The provisions of this chapter are intended for use in the Residential Attached Low Density (RAL) and Residential Attached Medium Density (RAM) zoning districts and are principally intended for single-family homes, townhomes, patio homes, courtyard homes, duets, and similar single-family detached and attached housing types. The provisions of this chapter shall not be applicable in the Residential Detached (RDL, RDM, RDH), Residential Attached High Density (RAH) and Mixed Use (MU-D, MU-N, MU-F) zoning districts.
- B. The standards in this chapter may be used as an alternative to the development standards for the RAL and RAM zoning districts contained in Chapter 18.18 (Residential Attached Zoning Districts). The standards in this chapter are not mandatory but instead provide an alternative to accommodate a wider range of housing types in a manner that enhances Morgan Hill's unique feel and minimizes impacts on adjacent properties.
- C. Modifications to homes in small lot developments already existing as of October 7, 2015 shall be exempt from these standards.

18.40.030– Design Permit Required

Proposed projects subject to the requirements of this chapter shall obtain a Design Permit pursuant to Section 18.108.040 (Design Permits).

18.40.040– Permitted Housing Types

Housing types allowed in the RAL and RAM zoning districts subject to the requirements of this chapter are shown in Table 18.40-1.

TABLE 18.40-1: PERMITTED HOUSING TYPES

Key P Permitted Use – Use not allowed	Zoning District	
	RAL	RAM
Housing Type		
Single-Family Detached Dwellings (SFD)	P [1]	–
Duets	P	–
Single-Family Attached Dwellings -Townhouse (TH)	P	P
Courtyard Homes (Courtyard)	P [1]	–
Duplex	P	P
Multi-Family Dwellings (Multi)	–	P

Note:

[1] The development of detached single family dwellings shall be no greater than 25 percent of the gross buildable site area (including lots and streets).

18.40.050– Development Standards

- A. General.** Minimum lot sizes and dimensions for specific housing types are shown in Table 18.40-2. Lot sizes, dimensions, coverage limits, and setback standards may vary based on the use within the specified zoning district.

TABLE 18.40-2: MEDIUM DENSITY RESIDENTIAL DEVELOPMENT STANDARDS

	Housing Type					
	Duet	Courtyard	SFD	TH	Duplex	Multi
Lot Area (min sq. ft.) [1] [2]	3,000	1,920 -2,999	4,500 - 5,500	1,440 - 3,999	6,000	6,000
Lot Width (min)	30 ft.	24 ft.	40 ft.	24 ft.	60 ft.	60 ft.
Lot Depth (min)	85 ft.	60 ft.	80 ft.	60 ft.	85 ft.	85 ft.
Lot Coverage (max) [3]	50%	45%	N/A	55%	<u>1 story:</u> 40% <u>2+ story:</u> 50%	60%
Floor Area Ratio (max)	N/A	N/A	52%	N/A	N/A	N/A
Height	See base zoning district			<u>See 18.40.050.B</u>	See base zoning district	
Setbacks						
Front [4]	10 ft.	N/A	15 feet	N/A	20 ft.	15
Interior Side	3 ft. [5]	5 ft. [7]	4 ft. [6]	N/A	5 ft. [7]	5 ft.
Street Side	6 ft.	5 ft.	8 ft.	5 ft.	10 ft.	15 ft.
Rear	10 ft.	N/A	15 ft.	N/A	15 ft.	20 ft.

Notes:

[1] Subject to the density requirements specified in the General Plan.

[2] Standards are for individual lots and not for the subdivision as a whole.

[3] Lot coverage limits apply to individual, subdivided parcels and to accessory structures as well as the primary residential structure on the site. Development in the RAL and RAM zoning districts is also subject to an aggregate lot coverage limit for the entire subdivision. See Section 18.18.060.A.

[4] Additional requirements apply for street-facing garages. See Section 18.18.070.H.7.

[5] A reduced setback (as low as zero feet) is acceptable on one side yard; provided, that the sum of both side yard setbacks is at least 6 feet and one setback is at least 4 feet.

[6] A reduced setback (as low as zero feet) is acceptable on one side yard; provided, that the sum of both side yard setbacks is at least 8 feet.

[7] A reduced setback (as low as zero feet) is acceptable on one side yard; provided, that the sum of both side yard setbacks is at least 10 feet.

B. Townhouse Height.

- The maximum building plate height of a townhouse is 30 feet. Building plate height is measured as the vertical distance from the average contact ground level at the front wall of the building to the plate line of the exterior walls which is the horizontal plane where the exterior walls meet the roof rafters or trusses
- Roof elements with a minimum 5:12 roof pitch may exceed the building plate height by up to 8 feet.

18.40.060– Standards for all Housing Types

- A. Aggregate Lot Coverage.** For all projects in the RAL and RAM zoning districts, the sum total coverage of all proposed buildings and structures shall not exceed 40 percent of the gross land area of the subdivision.
- B. Transitional Standards.** When a proposed project is adjacent to a residential zoning district, excluding the RAH zoning district, the following transitional standards shall apply:
1. The building setback from the adjacent residential zoning district properties shall be 5 feet for interior side yards;
 2. The building setback from the abutting residential zoning district properties shall be 20 feet for rear yards for lots 3,000 to 5,099 square feet and 15 feet for rear yards for lots 1,440 to 2,099 square feet.
 3. The building height at the above-mentioned setback lines may not exceed 30 feet. On lots where heights greater than 30 feet are allowed, the height may increase at a rate of one foot of vertical rise for every one foot of linear distance away from the setback line, to the maximum indicated in the corresponding zone district.
 4. A landscaped planter strip of at least 5 feet in width shall be provided along the abutting property line between a small lot subdivision or townhome development and any adjoining residential zoning district boundaries. Trees shall be planted within this area to provide screening between the small lot subdivision and the adjacent lower density uses.
- C. Open Space – Multi-Family Dwellings.** Common and private open space for multi-family dwellings shall be provided as shown in Table 18.40-3.

TABLE 18.40-3: USABLE OPEN SPACE FOR MULTI-FAMILY DWELLINGS

Common Open Space [1]	
Minimum area (percent of site area)	15% [2]
Minimum horizontal dimension	15 ft.
Private Open Space [4]	
Minimum percentage of units with private open space	50%
Minimum area (for individual unit)	48 sq. ft.
Minimum horizontal dimension	4 ft.

Notes:

[1] Common open space shall be fully landscaped and accessible to all residents.

[2] Roof terraces and roof gardens may provide up to 50 percent of the required common open space area if the Planning Commission finds that roof terraces and roof gardens provide quality open space for residents and minimize noise, privacy and other potential impacts on neighboring properties.

D. Open Space – Attached and Detached Single-Family Homes. The following open space provisions apply specifically to small lot, courtyard, and townhome housing types, and other new developments with similar housing types. The standards recognize that small lot subdivisions may have greater common open space needs than conventional single-family development due to their smaller yard areas.

1. **Private Open Space.** Each lot must include a private open space area, such as a private yard, porch, balcony, roof garden, or patio. Private open space must be contiguous to the unit it serves and accessible and visible from the living area of the unit. The minimum amount of private open space per unit shown in Table 18.40-3 may be reduced by up to 25 percent if off-set by the equivalent increase in common open space.
2. **Common Open Space.** Developments which have either: (a) average lot size of smaller than 4,356 square feet (e.g., density of more than ten units per net acre) or (b) 15 units or more, are required to provide common open space for the development's residents. Table 18.40-3 identifies the open space requirements, which vary based on lot size. Such common open space shall be visible from internal or external streets and shall be designed for informal surveillance from private residences to enhance neighborhood security. Common open space shall have a minimum usable width of 15 feet and a minimum area of 500 square feet, a slope of no more than ten percent, accessibility to all units, and be open to the sky. It may contain amenities which enhance usability, such as swimming pools, play equipment, benches and tables, and barbecues. Parking, loading, and service areas may not be counted as open space.

TABLE 18.40-3: USABLE OPEN SPACE FOR ATTACHED AND DETACHED SINGLE-FAMILY HOMES

Minimum Open Space Per Lot	Average Lot Area (square feet)			
	1,440 - 1,920	1,920 - 2,999	3,000 - 4,356	4,357 - 6,999
Private Open Space [1]	60 sq. ft.	150 sq. ft.	300 sq. ft.	350 sq. ft.
Common Open Space	140 sq. ft.	150 sq. ft.	175 sq. ft.	200 sq. ft.

Notes:

[1] Private open space per unit may be reduced by up to 25 percent if off-set by the equivalent increase in common open space.

E. Landscaping, Lighting, and Other Site Improvements. Landscaping, lighting and other site improvements shall be designed to diminish the impact of the denser development and provide a softer appearance as follows:

1. No more than 50 percent of any required front or street-facing side yard shall be covered with a paved or impervious surface.
2. A planter strip at least 5 feet wide shall be provided on the street-facing side of all walls fronting public or private roads in addition to landscaping provided as part of the streetscape.

3. A sufficient number and type of trees shall be provided to shade the sidewalks. Planting shall be done at the time public improvements are constructed.
4. Street lights shall be designed and scaled at a pedestrian scale with a maximum height of 16 feet. "Cobra head" type street lights are prohibited.

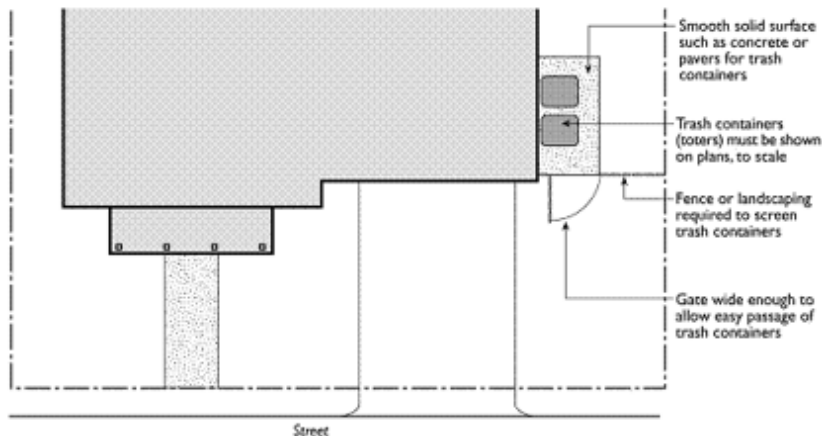
F. Orientation. All units located along public streets shall have the primary entrance facing the street right-of-way. Exceptions to this requirement may be approved by the city for projects which are located on four-lane streets carrying high traffic volumes and streets that do not allow on-street parking. In such cases, the project may be oriented around private streets or courtyards.

G. Roof-Mounted Equipment. Any roof-mounted mechanical equipment shall be incorporated into the roof design in such a way that it becomes an integral part of the architecture or is concealed from view.

H. Screening. Mechanical equipment and trash enclosures shall be screened as follows:

1. Air conditioners, heaters, utility equipment, meters, and similar equipment shall be screened from public view. Above-ground utility transformers and other above grade equipment shall not be located within the front yard along a street.
2. Fencing, landscaping, or view-obscuring structures shall be provided to screen trash cans or other refuse containers from view from public rights-of-way while still providing easy access to trash receptacles (see Figure 18.40-1).
3. A gate wide enough to allow for passage of city standard trash and recycling receptacles shall be provided.
4. Trash/recycling container storage areas shall have a smooth solid surface such as concrete or pavers.
5. The location of trash and recycling container storage areas shall be shown on plans submitted for planning and building permits.

FIGURE 18.40-1: STANDARDS FOR TRASH STORAGE AND SCREENING IN SMALL LOT SUBDIVISIONS



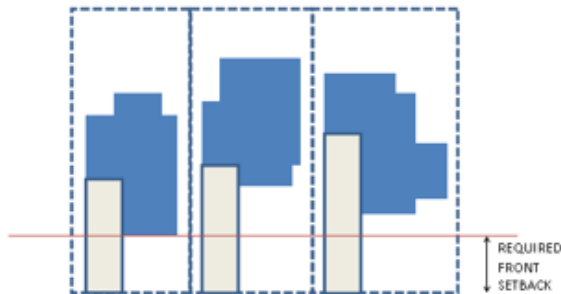
- I. Homeowners' Association.** A homeowners' association ("HOA") shall be required to provide ongoing maintenance for private streets and utilities, alleys, private open space and recreational facilities, stormwater drainage facilities, common landscaping, lighting, and other common areas, utilities, and facilities.
- J. Terminology.** For purposes of this chapter, the following terms shall be defined as follows:
 - 1. **Adjacent.** "Adjacent" means directly abutting, having a boundary or property line(s) in common or bordering directly, or contiguous to.
 - 2. **Feasible.** "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

18.40.070– Design Criteria for Small Lot Single-Family Subdivisions

- A. Applicability.** The standards in this section apply to small lot single-family subdivisions. They are not applicable to townhome developments or other development where the predominant unit type is attached housing.
- B. Unit Types.** Units in small lot subdivisions may include single-family detached homes and "duets" which share a common wall on one side.
- C. Lot Patterns.** Lot patterns shall be varied to avoid monotonous streetscapes and shall include:
 - 1. A variety of lot widths, depths, shapes, and sizes, such that there is a perceptible difference between lot sizes on a block. Lots shall be designed to accommodate a variety of home styles, setbacks, and garage placements;
 - 2. Larger lots on corners;
 - 3. Smaller lots surrounding common open space areas; and
 - 4. Blocks no longer than 600 linear feet.
- D. Floor Plans and Front Elevations.** The excessive repetition of identical floor plans and elevations shall be avoided. In subdivisions with fewer than 20 lots, at least three unique front elevations and floor plans shall be provided. In subdivisions with twenty lots or greater, at least four unique front elevations and floor plans shall be provided. Location of identical models on adjacent lots, including "back to back" lots, shall be avoided.
- E. Four-Sided Design.** Facades facing the side and rear yard shall include details which are compatible with those on the front facade, with similar types and treatments of roofs, windows, shutters, planter boxes, and other architectural elements.
- F. Front Setbacks.** Front yard setbacks shall be varied (see Figure 18.40-2). Generally, at least 50 percent of the homes shall have front yard setbacks which are greater than the

minimum required (excluding porches and non-habitable space). This component may be implemented by recording "build to" lines on the final subdivision map.

FIGURE 18.40-2: SMALL LOT SINGLE-FAMILY SUBDIVISION FRONT YARD SETBACKS



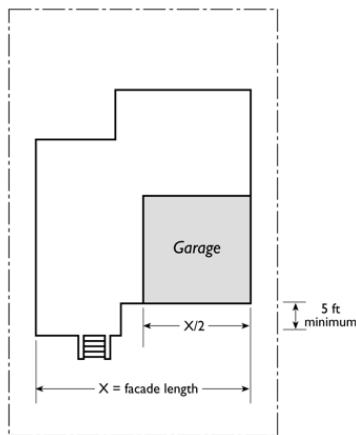
G. Rear Setbacks. A variety of rear setbacks shall be provided in order to avoid the appearance of long, monotonous walls from adjacent properties along the rear lot lines.

H. Building Size and Design. A variety of unit types and sizes, sited to provide compatibility with nearby neighborhoods, shall be provided. Buildings shall incorporate the following design features:

1. **Roof Variation.** Rooflines along the longer axis of the building shall be broken with varied pitches at the skyline level. Features such as turrets, dormers, and other variations that add architectural interest and distinction are encouraged.
2. **Building Height Variation.** Homes shall feature a variety of building heights, potentially including single story, two-story, three-story, split level units, and units with partial second floors. Units abutting lower density development on the perimeter of a subdivision shall generally be lower in height, or split level in design to enhance compatibility.
3. **Recessed Upper Stories.** For at least 50 percent of the units, the second and third stories shall be recessed relative to the first story to reduce the appearance of building mass. The design shall avoid tall sheer walls, and preserve the privacy of adjacent properties.
4. **Primary Entrances.** Primary entrances to homes shall be in a prominent and visible location facing the street. Primary entrances shall not face the side yard setback or a deep recess of the building.
5. **Usable Porches, Wherever Feasible.** Porches shall have a minimum depth of 5 feet and a minimum width of 8 feet, preferably extending a minimum of 50 percent of the width of the front facade, excluding the garage. Porches shall also incorporate different architectural features such as railings, short walls, trellises, and varied roof elements to provide architectural detail, character, and visual interest.
6. **Garage Entries.** There shall be a minimum of two locations of garage entries, such as front-facing attached garages, detached garages, and garages which are side-facing or accessed via a rear alley.

7. **Recessed Garages.** Garage faces shall be recessed a minimum of 5 feet from the primary facade of the residence (where they face the street and not a rear alley), in order to minimize the impact of the garage on the streetscape. The garage shall not comprise more than 50 percent of the front building facade (see Figure 18.40-3) on a residential unit. If additional articulation and architectural features are introduced to minimize the impact of the garage on the streetscape, the garage front facade length may be increased to 67 percent. Driveways shall facilitate tandem parking where feasible.

FIGURE 18.40-3: STANDARDS FOR STREET-FACING ATTACHED GARAGES IN SMALL LOT SUBDIVISIONS



- I. **Driveways.** Driveways shall be designed to reduce the amount of pavement within the subdivision to the greatest extent possible, as follows:
1. Maximum driveway width shall be 20 feet unless a wider driveway, up to 24 feet, is required for safe access;
 2. Shared driveways, such that there is a single curb cut providing access to two houses, shall be encouraged in order to reduce the number of curb cuts along a street;
 3. Driveways (and related curb cuts) shall be sited to maximize opportunities for on-street parking; and
 4. Side driveways to rear garages shall be designed wherever feasible to create opportunities for off-street tandem parking in the side yard.
- J. **Parking.** Parking requirements shall conform to the standards set in Chapter 18.72 (Parking and Loading), except as otherwise indicated below:
1. Two covered parking spaces shall be required for each housing unit; and
 2. Two additional parking spaces for each unit shall be available for the use of residents and guests. These spaces may include a combination of driveway parking (including tandem parking), alley parking, on-street parking in front of the residence, and designated guest parking areas.

18.40.080– Special Criteria for Townhome Developments

- A. Applicability.** This section applies specifically to townhome developments. For the purposes of this section, a townhome shall be defined as a series of three or more adjacent single-family dwelling units, each on an independent parcel, which are connected by common walls along the side property lines. Townhomes include row houses but do not include duplexes or duets. Interior unit townhomes typically have zero feet side yard setbacks on both sides, while end unit townhomes have a zero feet side yard setback on one side.
- B. Facade Articulation.** All building facades shall have at least one horizontal or vertical projection or recess at least 4 feet in depth, or two projections at least 2.5 feet in depth, for every 25 horizontal feet of wall. The articulated elements must be greater than one story in height and may be grouped rather than evenly spaced in 25 foot modules. Front porches, stoops, fireplaces, overhangs, trellises, and similar projections into the front yard may count toward this requirement.
- C. Variable Roof Forms.** Variable roof forms shall be incorporated into the building design. No more than two side-by-side units may be covered by one unarticulated roof. Articulations may be accomplished by changing roof height, offsets, and direction of slope and by introducing elements such as dormers, towers, and parapets. Alternative design approaches may be approved by the City, provided the goal of breaking down large building masses into smaller units is achieved.
- D. Garage Location.** Garages shall be located to the rear of the townhome and accessed via an alley or shared driveway wherever feasible. Garage faces shall be recessed a minimum of 5 feet from the primary facade of the residence (where the garage faces the street and not a rear alley) in order to minimize the impact of the garage on the streetscape. The garage shall not comprise more than 50 percent of the front building facade on a residential unit.
- E. Facade Detailing and Materials.** All visible building facades shall incorporate details, such as window trim, window recesses, cornices, changes in materials, or other design elements, in an integrated composition. Each side of a building that is visible from a public right-of-way, courtyard, or common open space, shall be designed with a complementary level of detailing and quality of materials.
- F. Projections and Recesses.** Facades shall incorporate balconies, bay windows, porches, and similar projections and recesses in a pattern that creates architectural interest across the length of the facade of a row of townhomes. Roofed projections or recesses shall be provided for all building entrances.
- G. End Units.** The side-facing facades at the end of a row of townhouses (or rowhouses) shall be consistent in design quality, materials, and massing with the street-facing building facades. End unit facades shall be designed to create a strong relationship with the street, with elements such as wrap around porches and bay windows facing the street or side yard area.

- H. Entry Elevation.** The ground floor elevation of a townhome shall be no more than 30 inches above the finished grade immediately adjacent to the entry.
- I. Walkways.** Walkways shall be provided to link the townhomes to recreational and other internal facilities as well as the other residential units and nearby public streets. Paseos, or pedestrian walks through common open space areas, are strongly encouraged.

18.40.090– Special Criteria for Courtyard Home Development

- A. Applicability.** This section shall specifically apply to courtyard home development. For the purposes of this section, courtyard homes are defined as individual homes on small lots arranged around a common driveway. Courtyard homes are intended to lessen the impact of curb cuts and garages on the streetscape and enable homes to be oriented to a public street or open space rather than a driveway and street-facing garage.
- B. Units Per Courtyard.** No more than six units shall be accessed from a single courtyard.
- C. Orientation.** Homes adjacent to the street to which the courtyard connects shall face that street (rather than the courtyard) whenever feasible.
- D. Courtyard Design and Pavement.** The portion of the courtyard used for vehicle circulation shall be finished with decorative pavement and shall be at least 16 feet wide, with a minimum width of 20 feet at its entrance to the adjacent street. Courtyards shall not exceed 100 feet in length.
- E. Vistas.** Terminating vistas of the courtyard from nearby streets shall not be dominated by garages.
- F. Garage Aprons.** Paved areas in front of garage doors shall have a minimum backout dimension of 24 feet. To avoid obstruction of the courtyard, garage aprons shall be either less than 6 feet deep or more than 18 feet deep. Aprons shall be limited to the rear units on a courtyard so that the parking aprons are not visible from the adjacent public or private streets.
- G. Recessing of Garages.** Garages shall be recessed behind the main dwelling unit by at least 2 feet.
- H. Architectural Unity.** All units on a court shall share a common architectural theme, although variations in building types and elevations on end units are encouraged.
- I. Windows.** Windows shall be sited and designed to maximize privacy and shall be set back from the property line to the maximum extent feasible. Second floor windows overlooking private open space areas of adjacent units shall be avoided wherever feasible.

18.40.100– Special Criteria for Condominium Developments

- A. Applicability.** This section applies specifically to condominium developments. For the purposes of this section, a residential condominium development shall be defined as:
 - 1. A residential project that consists of an undivided interest in common in a portion

of real property coupled with a separate interest in space called a unit, the boundaries of which are described on a recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof. The area within these boundaries may be filled with air, earth, water, or fixtures, or any combination thereof, and need not be physically attached to land except by easements for access and, if necessary, support. The description of the unit may refer to: (1) boundaries described in the recorded final map, parcel map, or condominium plan; (2) physical boundaries, either in existence, or to be constructed, such as walls, floors, and ceilings of a structure or any portion thereof; (3) an entire structure containing one or more units; or (4) any combination thereof.

2. The portion or portions of the real property held in undivided interest may be all of the real property, except for the separate interests, or may include a particular three-dimensional portion thereof, the boundaries of which are described on a recorded final map, parcel map, or condominium plan. The area within these boundaries may be filled with air, earth, water, or fixtures, or any combination thereof, and need not be physically attached to land except by easements for access and, if necessary, support.
3. An individual condominium within a condominium project may include, in addition, a separate interest in other portions of the real property.

B. Condominium Plan. A condominium plan shall contain all of the following:

1. A description or survey map of a condominium project, which shall refer to or show monumentation on the ground.
2. A three-dimensional description of a condominium project, one or more dimensions of which may extend for an indefinite distance upwards or downwards, in sufficient detail to identify the common area and each separate interest.
3. A certificate consenting to the recordation of the condominium plan pursuant to the provisions of the Civil Code and acknowledged as provided in Section 4290 of the Civil Code.

C. Utility Metering.

1. The consumption of gas and electricity within each unit shall be separately metered so that the unit owner can be separately billed for each utility.
2. Each dwelling unit shall be served by a separate city water meter. An additional separate city meter shall be provided to serve the common landscape areas in the condominium project.

D. Laundry Facilities. Each unit shall be provided with space and utility hookups within the unit or attached garage to accommodate a standard sized washer and dryer. The minimum dimensions shall be six feet wide and three feet deep.

E. Sound Transmission. Each condominium unit shall comply with the state of California's Noise Insulation Standards (Title 24 of the California Code of Regulations).

- F. Building Code Requirements.** Each unit of a condominium project and all commonly owned portions of a condominium building shall comply with all applicable building code standards. Nothing herein shall be construed to prevent or prohibit the applicant or the city from providing or requiring building standards greater than those set forth in the building code where the greater standards are found to be necessary to carry out the purposes and intent of this chapter.
- G. Design Standards.** Design standards in this chapter applicable to specific housing type(s) (e.g., townhomes, multi-family) shall apply to those housing types within a condominium project.

18.40.110– Special Criteria for Multi-Family Development

- A. Applicability.** This section shall specifically apply to multi-family developments which shall be defined as a building designed and used as a residence for three or more families living independently of each other and containing three or more dwelling units.
- B. Laundry Facilities.** Adequate laundry facilities shall be provided for all multiple-unit projects with at least one washing machine and one dryer per each five dwelling units.
- C. Storage Area.** Each unit shall be provided a separate storage area consisting of at least 100 cubic feet and having a minimum horizontal surface of twenty-five square feet.
- D. Building Frontage and Orientation.** Units shall face streets, open spaces and internal private streets whenever possible. Building fronts shall include porches and door facing streets.
- E. Open Space.** Common open space shall be centralized and directly accessible to units. Open common space shall be linked to adjacent parks, paseos, and paths.
- F. Variable Roof Forms.** Variable roof forms shall be incorporated into the building design. Articulations may be accomplished by changing roof height, offsets, and direction of slope, and by introducing elements such as dormers, towers, and parapets. Alternative design approaches may be approved by the City, provided the goal of breaking down large building masses into smaller units is achieved.
- G. Facade Detailing and Materials.** All visible building facades shall incorporate details, such as window trim, window recesses, cornices, changes in materials or other design elements, in an integrated composition. Each side of a building that is visible from a public right-of-way, courtyard, or common open space shall be designed with a complementary level of detailing and quality of materials.
- H. Projections and Recesses.** Facades shall incorporate balconies, bay windows, porches, and similar projections and recesses in a pattern that creates architectural interest across the length of the facade. Roofed projections or recesses shall be provided for all building entrances.
- I. End Units.** The side-facing facades at the end of a multi-family building shall be consistent in design quality, materials, and massing with the street-facing building facades.

End unit facades shall be designed to create a strong relationship with the street, with elements such as wraparound porches and bay windows facing the street or side yard area.

- J. Walkways.** Walkways shall be provided to link the multi-family units to recreational and other internal facilities as well as the other residential units and nearby public streets. Paseos, or pedestrian walks through common open space areas, are strongly encouraged.

Chapter 18.44 – ACCESSORY STRUCTURES AND USES

Sections:

18.44.010 – Purpose

18.44.020 – Accessory Structures in all Zoning Districts

18.44.030 – Accessory Structures in Residential Zoning Districts

18.44.040 – Accessory Structures in Non-Residential Zoning Districts

18.44.050 – Accessory Uses

18.44.010 – Purpose

This chapter establishes standards for accessory structures and uses. The intent of these standards is to:

- A. Ensure accessory structures and uses in residential districts are consistent with the residential character of the neighborhood;
- B. Maintain adequate light and air between structures;
- C. Minimize the visual impact associated with the height and bulk of accessory structures; and
- D. Ensure that accessory structures and uses are subordinate to the primary residence on the same lot.

18.44.020 – Accessory Structures in all Zoning Districts

► *Note: This section is new.*

The following standards apply to accessory structures in all zoning districts:

- A. **Primary Structure Standards.** Unless otherwise stated in this chapter, an accessory structure shall comply with all regulations applicable to the primary structure on the site.
- B. **Relation to Primary Structure.** Accessory structures and their use shall be clearly incidental and subordinate to the primary structure on the site.
- C. **Location.** Accessory structures shall be located on the same site as the primary use to which it is incidental and subordinate.
- D. **Timing.** Except for temporary construction trailers, accessory structures may not be constructed or established prior to the start of construction of the principal use or structure.
- E. **Accessory Structures Attached to Main Building.** When an accessory building or structure is attached to the main building, it shall be made structurally a part of and have a common wall or roof with the main building and shall comply in all respects with the requirements of the Zoning Code applicable to the main building.

18.44.030 – Accessory Structures in Residential Zoning Districts

- *Note: Minimum building separation requirement in new Subsection F (Building Separation) below replaces specific setback requirements in existing Section 18.12.080.I. Subsection G (Design Standards) is new.*
-

A. Applicability. This section applies to the following types of accessory structures in residential zoning districts:

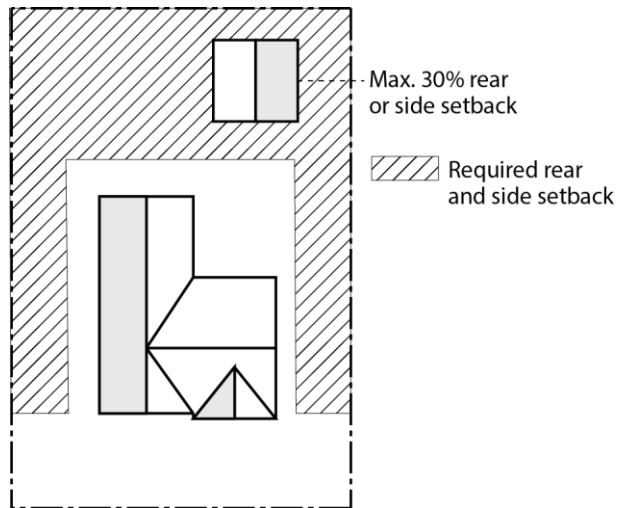
1. Roofed structures, including but not limited to detached garages, carports, sheds, shade structures, covered patios, play structures, covered dog enclosures, and gazebos, over 7 feet in height and/or 120 square feet in size.
2. Open, unroofed structures such as decks and trellises over 7 feet in height and detached from the main building on the site.
3. Mechanical equipment and mechanical equipment enclosures such as solar panels and water storage tanks, heating, and air conditioning equipment, and other similar mechanical equipment detached from the main building on the site.
4. Pools, spas and hot tubs.
5. Ponds 18 inches or more in depth.
6. Fireplaces, barbeque structures, statuary, fountains, and other similar ornamental features.

B. Limitation on Use.

1. Accessory structures may not be used as living space which is heated and/or cooled.
2. A pool house under 120 square feet may contain a full bathroom. All other accessory structures may be equipped with a half bath only (toilet and sink).
3. An accessory structure that does not comply with these use limitations shall be considered an accessory dwelling unit subject to the requirements of Chapter 18.84 (Accessory Dwelling Units).

C. Development Standards.

1. **Lot Coverage in Setback Areas.** Roofed accessory structures such as garages and sheds and open, unroofed structures such as decks may collectively occupy no more than 30 percent of a required side or rear setback area. See Figure 18.44-1.
2. **Height.** Accessory structures shall comply with maximum height standards in Table 18.44-1.

FIGURE 18.44-1: ACCESSORY STRUCTURE LOT COVERAGE IN SETBACK AREAS**TABLE 18.44-1: MAXIMUM ACCESSORY STRUCTURE HEIGHT**

Accessory Structure	Maximum Height
In required setback areas	
Above ground pools, spas and hot tubs and related equipment, accessories, and improvements	8 ft.
All other accessory structures	12 ft.
Outside of required setback areas	As required for primary structures in zoning district

- D. Setbacks from Property Lines.** Accessory structures shall comply with the minimum property line setback standards in Table 18.44-2.
- E. Building Separation.** Accessory structures shall be setback the minimum distance from other structures on the lot as required by the Building Code.
- F. Access Easements.** Accessory structures may not be located within a public or private access easement.

TABLE 18.44-2: MINIMUM ACCESSORY STRUCTURE SETBACKS

Accessory Structure	Minimum Setbacks from Property Lines	
	Front	Side and Rear
Roofed structures such as detached garages and sheds and open, unroofed structures such as decks and trellises		
Height 7 ft. or less	Same as primary structure	5 ft.
Height greater than 7 ft. to 12 ft.		Same as primary structure
Mechanical equipment and mechanical equipment enclosures		50 percent of minimum primary structure setback
Patios and Decks [2]		
Height 18 in. or less	5 ft.	1 ft.
Height greater than 18 in. and less than 6 ft.	15 ft.	5 ft.
Height 6 ft. to 12 ft.	20 ft.	12.5 ft.
In ground pools, spas and hot tubs	Same as primary structure	4 ft.
Above ground pools, spas, hot tubs and related equipment, accessories, and improvements	Same as primary structure	5 ft.
Ponds less than 18 in. in depth	10 ft.	1 ft.
Fireplaces, barbeque structures, statuary and fountains [1]		
Height 8 ft. or less	3 ft.	3 ft.
Height 8 ft. to 12 ft.	5 ft.	5 ft.

Notes:

[1] All openings for freestanding fireplaces and built-in barbeques shall meet all Uniform Building Code and Uniform Fire Code requirements.

[2] Height measured from ground to walking surface.

18.44.040 – Accessory Structures in Non-Residential Zoning Districts

Accessory structures in non-residential zoning districts are subject to the same development standards (e.g., height and setbacks) as primary structures in the applicable zoning district.

18.44.050 – Accessory Uses

► *Note: Subsection B (Non-Residential Accessory Uses) is new.*

A. Residential Accessory Uses. The following requirements apply to accessory uses in residential zoning district.

1. Accessory uses shall be located on the same parcel as a residence and shall be clearly incidental and subordinate to the residence.
2. Accessory uses shall not change the character of the residential use. Examples of permitted accessory uses include home occupations and personal property sales (i.e., garage or yard sales).

B. Non-Residential Accessory Uses. The following requirements apply to accessory uses in non-residential zoning districts.

1. Accessory uses shall be a part of and clearly incidental and subordinate to the primary use to which it relates.
2. Accessory uses shall be located on the same site as the primary use to which it is incidental and subordinate.
3. Accessory uses may not necessitate an increase in required number of parking spaces.

– This Page Intentionally Left Blank –

Chapter 18.48 – AFFORDABLE HOUSING

Sections:

- 18.48.010 – Purpose
- 18.48.020 – Definitions
- 18.48.030 – Eligibility
- 18.48.040 – Density Bonuses
- 18.48.050 – Concessions and Incentives
- 18.48.060 – Additional Density Bonuses
- 18.48.070 – Affordability Requirements

18.48.010 – Purpose

This chapter identifies incentives for the production of affordable housing for lower-income households in Morgan Hill. These incentives are intended to promote the production of affordable housing consistent with the General Plan Housing Element and California Government Code Section 65915 to 65918. In case of conflict between this chapter and the Government Code, the Government Code shall govern.

18.48.020 – Definitions

► *Note. Definition of “housing development” in subsection C below replaces definition in existing Section 18.47.030.*

Specialized terms used in this chapter are defined as follows:

- A. "Density bonus" means a density increase over the otherwise maximum allowable residential density for the net lot area as defined in Chapter 18.128 (General Terms) and as provided in Government Code Section 65915(f).
- B. "Concession" or "incentive" means any of the following as provided in Government Code Section 65915(k):
 - 1. A reduction in site development standards or a modification of Zoning Code requirements or architectural design requirements which exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in lot size, lot dimensions and building setbacks, and in the ratio of vehicular parking spaces that would otherwise be required, that results in identifiable, financially sufficient, and actual cost reductions.

2. Approval of mixed-use zoning if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the non-residential uses are compatible with the housing development and the existing or planned development in the area where a proposed housing development will be located.
 3. Other regulatory incentives or concessions set forth in Government Code Section 65915 or proposed by the developer or the City which result in identifiable, financially sufficient, and actual cost reductions.
- C. "Housing development" means a development project of five or more residential units, a subdivision or common interest development as described in Government Code Section 65915(i), or a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as described in Government Code Section 65915(i), where the result of the rehabilitation would be a net increase in available residential units.

18.48.030 – Eligibility

► *This section is new.*

To be eligible for a density bonus, a proposed housing development shall include a percentage of affordable units or provide senior citizen housing as described in Government Code Section 65915(b)(1), and if applicable, shall comply with Government Code Section 65915(c)(2)(C). A density bonus may also be granted to market-rate housing projects that donate land to the City for the development of affordable housing (Government Code Section 65915(g)) and affordable or senior housing projects that include an on-site child care facility (Government Code Section 65915(h)(1)).

18.48.040 – Density Bonuses

► *Note: Reference to PD amenities in existing Section 18.47.020 is removed.*

For eligible projects consistent with the requirements of this chapter and Government Code Section 65915, the City Council shall grant an increase in the number of dwelling units permitted in the proposed project. The amount of density bonus is based on the number and degree of affordable units as specified in Government Code Section 65915.

18.48.050 – Concessions and Incentives

► *This section is new.*

An applicant may request one or more concessions or incentives from the City as provided in Government Code Section 65915(d). The City Council shall grant the requested concessions and incentives unless the Council makes a finding described in Government Code Section 65915(d)(1).

18.48.060 – Additional Density Bonuses

- *Note: Modifies existing Section 18.47.040.B to allow for a cumulative density bonus of up to 35 percent for PD projects that incorporate community benefits.*
-

A proposed project may be eligible for a density bonus granted for planned development projects that incorporate community benefits as specified in Section 18.30.050 (Planned Development Overlay Zone). For projects receiving both an affordable housing density bonuses under this chapter and a planned development density under Section 18.30.050, the maximum cumulative density bonus for both density bonuses combined may not exceed 35 percent.

18.48.070 –Affordability Requirements

- *Note: This section replaces existing Sections 18.47.050 & 060 with reference to affordability requirements in state law.*
-

- A. For-Sale Units.** A developer shall agree to and the City shall ensure that the initial occupant of all affordable for-sale units are households of low-, very low-, or moderate-income, as applicable, and that the units are offered at an affordable housing cost as defined in Health and Safety Code Section 50052.5. The City shall enforce an equity sharing agreement for the affordable units as described Government Code Section 65915(c)(2).
- B. Rental Units.** A developer shall agree to and the City shall ensure the continued affordability of all affordable rental units for 55 years or a longer period of time if required by an applicable construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code.

– This Page Intentionally Left Blank –

Chapter 18.52 – FENCES AND WALLS

Sections:

- 18.52.010 – Purpose and Applicability
- 18.52.020 – Required Permits and Approvals
- 18.52.030 – Measurement of Fence and Wall Height
- 18.52.040 – Height Limits
- 18.52.050 – Exceptions to Height Limits
- 18.52.060 – Materials
- 18.52.070 – Nonconforming Fences and Walls.

18.52.010 – Purpose and Applicability

This chapter establishes standards for fences and walls that apply in all zoning districts.

18.52.020 – Required Permits and Approvals

- A. No Planning Permit Required.** Fences and walls consistent with this chapter are permitted by-right without the requirement to obtain any planning permit unless otherwise stated.
- B. Building Permit.** Fences and walls may require a building permit as required by California Building Code.
- C. Encroachment Permit.** A fence or wall in the public right-of-way requires approval of an Encroachment Permit consistent with Municipal Code Chapter 12.08 (Excavation and Encroachment).
- D. Minor Exception.** The Community Development Director may grant a minor exception to increase the maximum permit height of a fence or wall as described in Section 18.52.050 (Exceptions to Height Limits).

18.52.030 – Measurement of Fence and Wall Height

► *Note: Section C (Different Finished Grades) is new.*

- A. Measurement of Height.** The height of a fence or wall is measured from the finished grade at the base of the fence or wall to the top edge of the fence or wall.
- B. Fences on Walls.** If a fence is atop a wall, the fence height is measured from the base of the fence.

- C. Different Finished Grades.** If the adjacent finished grade is different on opposite sides of a fence or wall, the height is measured from the side with the lowest finished grade to the highest point on the fence or wall. *[New]*

18.52.040 – Height Limits

- A. Maximum Height.** Fences and walls may not exceed the maximum height shown in Table 18.52-1 and Figure 18.52-1 except as allowed by Section 18.52.050 (Exceptions to Fence Height Limit).

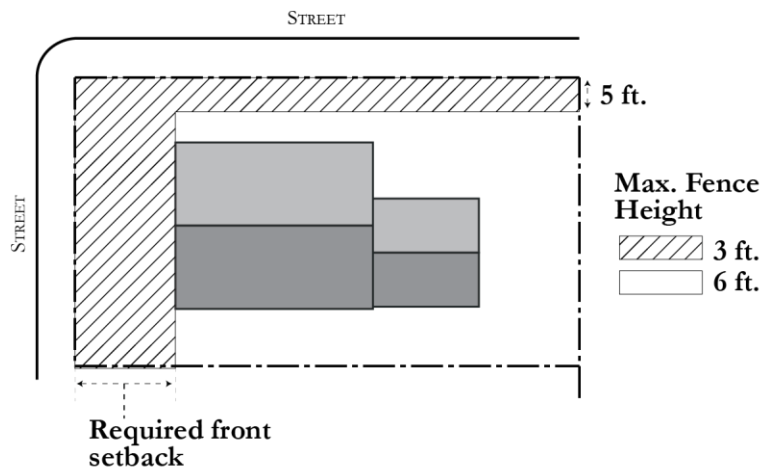
TABLE 18.52-1: MAXIMUM FENCE AND WALL HEIGHT

Fence and Wall Height	Maximum Height
Fence in front setback area	3 ft.
Fence within 5 ft. of street side property line	3 ft.
Fence within all other areas of a lot	6 ft. [1]

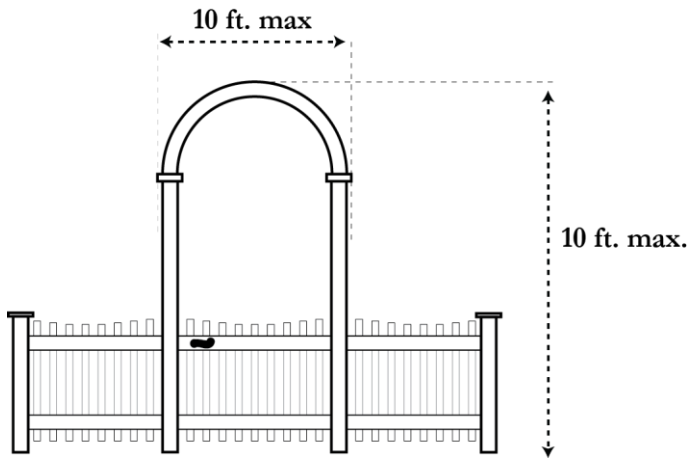
Notes:

[1] An additional 1 foot of fence height up to a maximum of 7 feet is permitted for lattice work and other decorative features uniformly open to the passage of light and air.

FIGURE 18.52-1: MAXIMUM FENCE AND WALL HEIGHT



- B. Decorative Features.** A decorative arch, gate, trellis or other entry feature located along a street frontage may exceed the height limit shown in Table 17.52-1. Decorative features shall be limited to 10 feet in width and 10 feet in height. Only one decorative feature is permitted per street frontage. See Figure 18.58-2.
- C. Clear Triangle.** Walls and Fences shall comply with clear triangle requirements in Section 18.92.080 (Intersection Site Distance).

FIGURE 18.52-2: DECORATIVE ENTRY FEATURES**18.52.050 – Exceptions to Height Limits**

The Community Development Director may approve a Minor Exception (Section 18.108.070) to allow an increase to the maximum permitted height of a fence or wall as described below.

A. Open Space and Residential Estate Zoning Districts.

1. Within the Open Space and Residential Estate zoning districts, the Community Development Director may grant a Minor Exception to increase the maximum height of a fence in the front setback area to a maximum 6 feet in height.
2. This exception applies only to open, wrought iron or decorative fences that are at least 70 percent open to the passage of light and air.
3. Chain link, chain link with wood or vinyl slats, solid board fences, or any other type of view obstructing fencing may not exceed 3 feet in height in the front setback area.

B. All Zoning Districts. The Community Development Director may grant a Minor Exception to increase the maximum height of a fence or wall by 2 feet in the front setback area and 1 foot behind the front setback line in the following cases:

1. The topography of sloping sites or a difference in grade between adjoining sites warrants such increase in height to maintain privacy, security, or effectiveness of screening.
2. A property is located adjacent to public parks, other public spaces or adjacent to private common area parks and open space where an increase in fence or wall height would not unreasonably affect desirable views or vistas or the open space value of abutting sites.

18.52.060 – Materials

The following fence and wall materials and types are prohibited unless otherwise approved by the Planning Commission:

- A.** Residential zoning districts: Barbed wire, razor wire, chain link, and electric fences.
- B.** Commercial zoning districts: Chain link fences.
- C.** Industrial zoning districts: Barbed wire, razor wire, chain link and electric fences within the front setback area.

18.52.070 – Nonconforming Fences and Walls.

See Chapter 18.68 (Nonconforming Uses and Structures).

Chapter 18.56 – HEIGHT, SETBACK AND LOT COVERAGE EXCEPTIONS

Sections:

18.56.010 – Purpose

18.56.020 – Height Exceptions

18.56.030 – Setback Exceptions

18.56.040 – Lot Coverage Exceptions

18.56.010 – Purpose

This chapter identifies permitted exceptions to height, setback, and lot coverage requirements for zoning districts as established in Part 2 (Zoning Districts and Overlay Zones).

18.56.020 – Height Exceptions

► *Note: Subsection A (Projections Allowed By-Right) modifies existing Section 18.57.020.*

A. Projections Allowed By-Right. Table 18.56-1 identifies building features which may project above the maximum permitted building height in the applicable zoning district. These projections are permitted by-right, with no discretionary permit required.

TABLE 18-56-1: ALLOWED PROJECTIONS ABOVE HEIGHT LIMITS

Structures Allowed Above Height Limit	Maximum Coverage	Maximum Projection
Non-habitable decorative features such as spires, steeples, belfries, cupolas, domes	10% of roof area [1]	5 ft. in Residential Estate and Residential Detached zones; 10 feet in all other zones
Parapets, fire escapes, catwalks, and open guard rails required by law	As required by law	As required by law
Skylights	No restriction	1 ft.
Chimneys and vent stacks	5% of roof area	5 ft.
Amateur Radio Facilities	No restriction	35 ft. [2]
Receive-only radio and television antennas	No restriction	12 feet in residential and mixed-use zones; 30 ft. in all other zones.
Building mounted wireless communications facilities	See Chapter 18.96	

Rooftop features for outdoor living areas, such as sunshade, open railings, trellises, and landscaping	25% of roof area [1]	10 ft. [2]
Elevator shafts and stair towers (for multi-family and non-residential buildings only)	10% of roof area [1]	16 ft. [2]
Rooftop equipment and enclosures	25% [1]	12 ft. [2]
Flagpoles not over 8 inches in width	N/A	6 ft.
Photovoltaic panels	No restriction	4 ft.
Wind energy systems	No restriction	10 ft.

Notes:

[1] Must be set back from the exterior wall one foot for every foot of projection above the height limit.

[2] As measured from the building roofline.

B. Height Exceptions Allowed with Minor Exception. The Community Development Director may allow buildings to exceed the maximum permitted height in the applicable zoning district by up to 10 percent with the approval of a Minor Exception. See Section 18.108.080 (Minor Modification).

18.56.030 – Setback Exceptions

► *Note: Subsection A (Projections into Required Setbacks) modifies existing Section 18.57.030.*

A. Projections into Required Setback. Table 18.56-2 identifies primary building features which that may project into minimum required setbacks in the applicable zoning district. These projections are permitted by-right, with no discretionary permit required.

TABLE 18.56-2: ALLOWED PROJECTIONS INTO REQUIRED SETBACKS

Projecting Features	Maximum Projection into Required Setback	Minimum Distances from Property Lines
Cornices, awnings, eaves, and other similar roof projections	3 ft.	1.5 ft.
Canopies and similar features within any non-residential zoning district	Two-thirds of required setback	5 ft.
Ground floor porches	7 ft.	5 ft.
Upper story porches	5 ft.	5 ft.
Uncovered stairs, ramps, stoops, or landings that service upper stories	5 ft.	5 ft.
Bay windows and chimneys	3 ft. [1]	1.5 ft.

Notes:

[1] Features may not occupy, in the aggregate, more than one-third of the length of the building wall on which they are located.

- B. Accessory Structures.** See Chapter 18.44 (Accessory Structures and Uses) for setback requirements that apply to accessory structures.
- C. Setback Exceptions Allowed with Minor Exception.** The Community Development Director may decrease the required front and rear setback by up to 25 percent and the required side setback by up to 40 percent with the approval of a Minor Exception. See Section 18.108.070 (Minor Exception).

18.56.040 – Lot Coverage Exceptions

The Community Development Director may decrease the maximum lot coverage requirement by up to 10 percent with the approval of a Minor Exception. See Section 18.108.070 (Minor Exception).

– This Page Intentionally Left Blank –

Chapter 18.60 – HISTORIC RESOURCES

Sections:

- 18.60.010 – Purpose
- 18.60.010 – Applicability
- 18.60.020 – Definitions
- 18.60.030 – Identification of Historical Resources
- 18.60.040 – Local Register Designation Process
- 18.60.050 – Adopted Survey List Designation Process
- 18.60.060 – Determining if Historical Alterations, Demolition or Relocation
Permits are Required
- 18.60.070 – Historical Alterations Permit
- 18.60.080 – Historical Resource Demolition or Relocation Permit
- 18.60.090 – Archaeologically Sensitive Areas
- 18.60.100 – Maintenance and Repair of Historic Resources
- 18.60.110 – Appeals
- 18.60.120 – Enforcement and Penalties
- 18.60.130 – Preservation Incentives

18.60.010 – Purpose

- A. General Purpose.** The purpose of this chapter is to promote the public health, safety and general welfare by providing for the identification, protection, enhancement, perpetuation and use of historical resources, including buildings, structures, signs, objects, features, sites, areas, record, manuscript, historic and prehistoric archaeological sites, places, districts, designed landscapes, cultural landscapes and areas within the city that reflect special elements of the city's architectural, artistic, cultural, engineering, aesthetic, historical, political, social and other heritage.
- B. Specific Intent.** This chapter is specifically intended to:
1. Safeguard the heritage of the city as embodied and reflected in such resources;
 2. Encourage public knowledge, understanding and appreciation of the city's past;
 3. Foster civic and neighborhood pride and a sense of identity based on the recognition and use of historical resources;
 4. Promote the enjoyment and use of historical resources appropriate for the education and recreation of the people of the city;
 5. Preserve historic architectural styles and design preferences reflecting phases of the city's history and to encourage complementary contemporary design and construction;

6. Enhance property values and to increase economic and financial benefits to the city and its inhabitants;
7. Protect and enhance the city's attraction to tourists and visitors (thereby stimulating business and industry);
8. Identify as early as possible and resolve conflicts between the preservation of the historical resources and alternative land uses;
9. Integrate the preservation of historical resources and the extraction of relevant data from such resources into public and private land management and development processes; and
10. Conserve and recycle valuable community resources by continuing use and maintenance of the historic built environment.

18.60.010 – Applicability

This chapter applies to potentially significant, significant, and designated historical resources within the City of Morgan Hill.

18.60.020 – Definitions

A. Terms Defined. Terms used in this chapter are defined as follows:

1. "Adopted Survey List" is a list of resources (e.g., object, building, structure, site, area, place, record, or manuscript) which the City of Morgan Hill determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of Morgan Hill but have not been officially designated or listed on the local register. Resources listed on the adopted survey list shall be considered significant historical resources for the purposes of this chapter.
2. "Age" means the characteristic of being at least 45 years old.
3. "Alteration" is exterior change or modification of character-defining features, through public or private action, of any significant or potentially significant historical resource, or of any contributing resource located within an historic district, which may include but not be limited to, exterior changes to or modification of structure, architectural details or visual characteristics such as surface texture, grading, surface paving, new structures, cutting or removal of trees and other natural features, disturbance of archeological sites or areas and the placement or removal of any exterior objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, significant plantings and landscape accessories, to the extent that such would affect the exterior character-defining features of the property containing the resource.

4. "Association" is the direct link between an important historic event or persons and a historic property for design, engineering or construction value and the ability to yield important information about prehistory or history.
5. "Buildings" are structures created to shelter human activity. Historic buildings are considered in their entirety. A building that has lost its basic structural elements is usually considered a "ruin" and is categorized as a site.
6. "Character-Defining Features" are those physical characteristics of an historical resource that convey its historical significance and justify its inclusion in or eligibility for inclusion in the National, California or Local Register. Character-defining features of a resource are documented by a qualified professional on a Primary Record survey form and/or a full historic evaluation; and also may consist of features mutually agreed upon by a property owner and the Community Development Director or designated city staff.
7. "Design" is the combination of elements that create the form, plan, space, structure and style of a property.
8. "Designated Historical Resource" is any historical resource that has been determined to be significant and that has been designated and placed on a local register of historical resources pursuant to this chapter.
9. "Evaluation" is an intensive survey used to determine historical significance of a resource. An evaluation consists of completed Department of Parks and Recreation (DPR) 523 series survey forms, including: 1) Primary Record (523A); 2) Building, Structure, Object Record (523B); and 3) Any additional survey form appropriate for documentation of the subject resource.
10. "Feeling" is a property's expression of the aesthetic or historic sense of a particular period of time and results from the presence of physical features that, taken together, convey the property's historic character.
11. "Historical Resources" include the following classifications: buildings, structures, sites, objects, historic district and archaeological resources that have determined to have a) Age, b) Integrity and c) Historical Significance. For the purposes of this chapter and the California Environmental Quality Act (CEQA), the term "historical resources" shall include the following:
 - a. A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the National Register or the California Register of Historical Resources.
 - b. A resource included in a local register of historical resources or identified as significant in an historical resource survey meeting the requirements of section 5024.1(g) of the California Public Resources Code will be presumed to be historically or culturally significant, unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

- c. Any object, building, structure, site, area, place, record, or manuscript which the city of Morgan Hill determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California or of Morgan Hill.
 - d. The fact that a resource is not listed in or determined to be eligible for listing in the California Register, and is not listed in a local register, does not preclude the city from determining that the resource is a potentially significant historical resource, such that further evaluation can be required to evaluate the resource for historic significance.
12. "Historic Context Statement" is a document adopted by the City Council that describes historic periods and themes in Morgan Hill's history, which is used as a tool to assist with the assessment of a property's historic significance, by providing a framework against which to objectively qualify the property's relationship to larger themes and events.
13. "Historic District" is a geographically-definable area - urban or rural, small or large - possessing a significant concentration, linkage, or continuity of sites, buildings, structures and/or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history. A contributing resource within the district is an historical resource which contributes to the character of a historic district as described in National Register Bulletin 15.
14. "Historical Significance" in national, state or local history, architecture, archaeology, engineering and culture is present in districts, sites, buildings, structures and objects that possess age, integrity and association with an important historical context:
- a. That are associated with events that have made a significant contribution to the broad patterns of our national, state and/or local history and cultural heritage; or
 - b. That are associated with the lives of persons significant in our national, state and/or local past; or
 - c. That embody the distinctive characteristics of a type, period, region, or method of construction, or that represent the work of a master or important creative individual, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
 - d. That have yielded, or may be likely to yield, information important in prehistory or history.
15. "Historic Preservation Officer" is defined as the Community Development Director when such a designation is relevant for consultation with federal agencies for the purpose of Section 106 procedures. This designation may be used for other consultations affecting community historical resources.

16. "Integrity" is the ability of a property to convey its significance and evaluation of integrity is grounded in an understanding of a property's physical features and how they relate to its significance. There are seven aspects or qualities that, in various combinations, define integrity: location, design, setting, materials, workmanship, feeling and association. To retain historic integrity a property will always possess several, and usually most, of the aspects. Determining which of the seven aspects are most important to a property requires knowing why, where and when the property is significant.
17. "Interior Architectural Feature" is any portion of the interior of a public space in a publicly owned building, or of a space in a privately-owned building designated or listed at the request of the owner, where the space is generally accessible for use and viewing by the general public. The feature must meet the criteria for historic significance in accordance with the criteria for designation as provided in this chapter. Proposed changes to designated historic interior spaces must follow the same procedures outlined in this chapter for alteration to exterior features.
18. "Local Register" is a list of properties officially designated or recognized as historically significant by the City of Morgan Hill pursuant to a local ordinance or resolution adopted by the City Council.
19. "Location" is the place where the historic property was constructed or the place where the historic event occurred.
20. "Object" is a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by design or nature, moveable yet related to a specific setting or environment.
21. "Potentially Significant Historical Resource" is a resource that is identified through a Reconnaissance Survey and/or by the City to have (a) Age and (b) Integrity but Historical Significance has not yet been evaluated or determined.
22. "Preservation" is defined as the act or process of applying measures necessary to sustain the existing form, integrity and materials of an historical resource. Work including preliminary measures to protect and stabilize the resource generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction.
23. "Reconnaissance Survey" is a preliminary historic survey used of a defined geographic area, which identifies resources warranting further evaluation to determine historical significance, and which may also identify geographic areas and/or properties that do not have potential historical resources and will not be subject to historic review as long as the timeframe of the reconnaissance survey remains valid for such determination. A reconnaissance survey will generally include DPR 523 Primary Record survey forms (DPR 523A) or equivalent information for those resources determined to warrant future further evaluation.

24. "Reconstruction" is defined as the act or process of depicting, by means of new construction, the form, features and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.
25. "Rehabilitation" is defined as the act or process of making possible a compatible use for a resource through repair, alterations and additions while preserving those portions or features which convey its historical, cultural, or architectural value.
26. "Restoration" is defined as the act or process of accurately depicting the form, features and character of a resource as it appeared at a particular period in time by means of the removal of features from other periods in its history and reconstructing missing features from the restoration period.
27. "Setting" is the physical environment of a historic property. Whereas location refers to the specific place where a property was built or an event occurred, setting refers to the character of the place in which the property played its historical role.
28. "Site" is the location of a significant event, a prehistoric or historic occupation or activity, or a building, structure or landscape, whether standing, existing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure. A site can possess associative significance or information potential or both, and can be significant under any or all of the four criteria for evaluation of significance.
29. "Standards" are the Secretary of the Interior's Standards for the Treatment of Historic Properties, which is the body of information that provides acceptable approaches for preserving, rehabilitating, restoring and reconstructing significant historical resources or potentially significant historical resources. A project that follows the Secretary's Standards is considered not to result in a significant impact to the resource under the California Environmental Quality Act(CEQA).
30. "Structure" is a man-made feature made of interdependent and interrelated parts in a definite pattern of organization. The term "structure" is used to distinguish from "buildings" which are constructed primarily for human shelter. If a structure has lost its historic configuration or pattern of organization through deterioration or demolition, it is usually considered a "ruin" and is categorized as a site.
31. "Substantial Adverse Change" means demolition, destruction, relocation, or alteration of the character-defining features of an historical resource or its immediate surroundings such that the significance of an historical resource would be materially impaired. A project with an effect that may cause a substantial adverse change is a project that may have a significant effect on the environment under CEQA.
32. "Unique Archaeological Resource" is a type of historical resource and means an archaeological artifact, object, or site about which it can be clearly demonstrated

that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

- a. Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information.
- b. Has a special and particular quality such as being the oldest of its type or the best available example of its type.
- c. Is directly associated with a scientifically recognized important prehistoric or historic event or person.

33. "Workmanship" is the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.

B. Terms Not Defined. Terms not defined in this section shall be interpreted so as to give this chapter its most reasonable meaning and application.

18.60.030 – Identification of Historical Resources

A. Citywide Reconnaissance Survey.

1. In 2008, the City completed a reconnaissance survey to identify potential historical resources located within the City of Morgan Hill 2007 Urban Growth Boundary (UGB). The survey process included a visual survey of over 870 properties containing structures at least 45 years in age. From the over 870 properties, 126 DPR 523A Primary Record survey forms were completed for properties appearing to maintain historic integrity. The reconnaissance survey will be used to exclude properties from further historic evaluation and to identify those properties requiring a full evaluation as defined in this chapter, as part of future development proposals, to determine historical significance.
2. The City of Morgan Hill may periodically update the citywide reconnaissance survey and/or survey additional properties located within the city limits, urban growth boundary, urban limit line, or sphere of influence boundary, for the purposes of identifying those properties or geographic areas that are determined not to be or contain potentially significant historical resources, as well as to identify those properties or areas that may contain potentially significant historical resources and will require additional evaluation in order to make determinations of age, integrity and/or significance.
3. The City of Morgan Hill will maintain a comprehensive record of reconnaissance surveys, evaluations and historic reports completed for properties located within the city limits, urban growth boundary and/or sphere of influence, including those completed as part of the 2008 Reconnaissance Survey and those submitted by individual applicants.

B. Local Register of Designated Historical Resources. The City of Morgan Hill will maintain a local register of designated historical resources consisting of resources

determined by the City Council to possess age, integrity and significance. The City of Morgan Hill will also maintain an adopted survey list identifying resources considered to be significant to Morgan Hill but not officially designated or listed on the local register. For the purposes of this chapter, an object, building, structure, site, area, district, unique archaeological resource, place, record, or manuscript may be classified a designated historical resource and placed on the local register by the planning commission pursuant to Section 2.36.040 if it is determined through survey and documentation to be a "Historical Resource" as defined in this chapter, which are determined to have (a) age, (b) integrity and (c) historical significance as defined by this chapter

- C. Archaeological Sensitivity Maps.** The City of Morgan Hill may publish or adopt archaeological sensitivity maps and/or may request the assistance of the Northwest Information Center, which is the area's historical resources information system located at Sonoma State University, for information about known archaeological sites, or about potential historic or prehistoric resources that may be determined to be significant or unique.
- D. Site Specific Evaluations.** The City of Morgan Hill may require project applicants to retain qualified consultants to prepare evaluations that can be used by the city to determine whether a property or site is a potentially significant or a significant historical resource, as part of development review and/or environmental review processes. The city may require a peer review by the city's historic consultant of any evaluation report submitted directly by an applicant. Reconnaissance surveys and evaluations shall use the adopted Morgan Hill Historic Context Statement as a tool for understanding whether and why the property is significant. A resource must be associated with an important historical context and retain integrity of those features necessary to convey that significance.

18.60.040 – Local Register Designation Process

Historical resources and historic districts shall be designated and placed on the local register by the Planning Commission as follows:

- A. Request for Designation.** The City of Morgan Hill or any property owner may request the designation of a significant or potentially significant historical resource or the designation of a historic district by submitting an application for such designation to the Planning Commission. The Community Development Director, Planning Commission or City Council may also initiate such proceedings on their own motion.
- B. Study.** The Community Development Director will conduct a study of the proposed designation and make a preliminary determination based on such documentation as may be required, as to the appropriateness for designation. If the Community Development Director determines the application merits consideration, the Community Development Director shall forward such analysis and recommendation to the Planning Commission at a public hearing to consider designation of the historical resource or historic district.

- C. Hold on Permits.** No building alteration, demolition or relocation permits for any improvement, building or structure proposed for designation or located within a historic district that is proposed for designation shall be issued while the public hearing or any appeal related thereto is pending.
- D. Public Notice and Hearing.** The Planning Commission shall consider an application for the designation of a proposed historical resource or historic district at a public hearing noticed in accordance with Section 18.104.090 (Notice of Hearing).
- E. Planning Commission Decision.** At the conclusion of the public hearing for the designation of a proposed historical resource or historic district, the Planning Commission shall approve in whole or in part, or disapprove in whole or in part, the application, in writing.
- F. Appeal.** The Planning Commission decision to approve or deny the formal designation of a historical resource or historic district or to impose conditions on a project may be appealed in accordance with Section 18.60.120 (Appeals).

18.60.050 – Adopted Survey List Designation Process

Historical resources may be placed on the adopted survey list by the City Council in the following manner:

- A. Initiation.** The City of Morgan Hill or any property owner may request the inclusion of a significant or potentially significant historical resource on the adopted survey list by submitting an application to the Community Development Director. The Planning Commission or City Council may also initiate such proceedings on their own motion.
- B. Study.** The Community Development Director will conduct a study of the proposed inclusion and make a preliminary determination based on such documentation as may be required, as to the appropriateness for inclusion, and shall forward such analysis and recommendation to the Planning Commission and City Council at a public hearing.
- C. Hold on Permits.** No alteration, demolition or relocation permits shall be issued for the subject resource while the public hearing or any appeal related thereto is pending.
- D. Planning Commission Hearing.** The Planning Commission shall consider an application for the inclusion of the resource on the adopted survey list at a public hearing noticed in accordance with Section 18.104.090 (Notice of Hearing). The Planning Commission shall recommend to the City Council to either include or to not include resource on the adopted survey list.
- E. City Council Hearing.** The City Council shall act on application for the inclusion of the resource on the adopted survey list at a public hearing noticed in accordance with Section 18.104.090 (Notice of Hearing).

- F. Effect of Listing.** Any proposed alteration, demolition or relocation of a historical resource listed on the adopted survey list shall be subject to the same review process and criteria outlined in this chapter for designated historical resources.

18.60.060 – Determining if Historical Alterations, Demolition or Relocation Permits are Required

Development projects and building permit applications involving structures or buildings at least 45 years in age, or located within a historic district, shall undertake the following steps in the development review process to determine if a Historical Alteration Permit and/or Historical Resource Demolition or Relocation Permit is required. Building permit applications involving only interior improvements are not subject to the provisions of this chapter, unless the building interior is specifically listed on the local register as a designated historical resource.

- A. Prior Review.** City staff shall consult the comprehensive record of reconnaissance surveys and evaluations on file at the ~~Community Development~~ Development Services Department to determine whether the subject resource has been previously reviewed, and if so, the status of the resource (i.e., potentially significant, significant, not significant, or requires evaluation).
- B. Evaluation.** If the subject resource has not been previously reviewed, or if the Community Development Director determines the existing survey and/or evaluation is no longer valid due to the age of the survey or analysis (more than five years old), or as a result of substantial change to the physical condition of the resource or its setting, the applicant may be required to provide an evaluation. Evaluations shall be prepared by a qualified consultant and shall use the California Register Criteria for Evaluation and the adopted Morgan Hill Historic Context Statement to determine significance.
- C. Resources Found Not Significant.** Resources that are surveyed, evaluated and determined not to be significant shall require no further historic review.
- D. Significant or Potentially Significant Resources.**
1. Resources that are surveyed, evaluated and determined to be a potentially significant or significant historical resource shall be subject to CEQA and the discretionary permit requirements established by this chapter for any proposed alteration, demolition or relocation of the resource.
 2. The Community Development Director may determine that no evaluation and/or no discretionary permit is required if either of the following apply:
 - a. The resource is located in a geographic area that has been determined by a valid reconnaissance survey, or other evaluation conducted by the City or applicant, not to be or contain potentially significant historical resources; or
 - b. The nature of work is minor and incidental; will not adversely affect the external appearance of the character-defining features of existing significant

improvements, buildings and structures on the site; the proposed project or building permit application is consistent with the Secretary of the Interior's Standards.

18.60.070 – Historical Alterations Permit

- A. When Required.** Unless waived pursuant to paragraph 18.62.030.E, it is unlawful for any person to alter or modify character-defining features of a potentially significant or significant historical resource, a resource that has been formally designated or listed on the City's adopted survey list, or which lies within an historic district, without first obtaining a Historical Alteration Permit as outlined below. Neither the Community Development Director nor the Building Official shall grant any permit to carry out such work without the approval of a Historical Alteration Permit.
- B. Application.** If a Historical Alteration Permit is required pursuant to Section 18.60.040, the following procedures will be followed in processing the permit application:
1. Historical Alteration Permit applications shall be submitted to the ~~Community Development~~ Development Services Department for review and approval. Applications shall be accompanied by materials as required by the Community Development Director and reasonably necessary for the proper review of the project, including but not limited to information regarding the age and construction of a building or structure and building permit records;
 2. The Community Development Director or designated staff shall determine whether the application will be processed as "minor" or "major" historical alteration permit;
 - a. "Minor" historical alteration permits shall apply to alterations with a valuation of less than \$10,000 or as determined to be minor by the ~~community development~~ Community development Director.
 - b. "Major" historical alteration permits shall apply to alterations with a valuation of \$10,000 or greater.
 3. City Staff will review applications for compliance with the Secretary of the Interior's Standards and may require that the applicant deposit funds for the City to retain the services of a qualified historic consultant if necessary;
 4. Environmental review of a historical alteration permit application will be required as follows:
 - a. If the proposed alteration or modification is in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties, the potential impact on historical resources shall be considered less than significant and the project would be exempt from CEQA unless other factors are identified which could cause other potentially significant environmental impacts.

- b. If the proposed alteration or modification is not in compliance with the Secretary of the Interior's Standards then CEQA review will be required.
- 5. Historical Alteration Permit applications (both minor and major) will require the review and approval of the Community Development Director or designated staff, except as provided below:
 - a. Any application involving preparation of an initial study, negative declaration or environmental impact report shall be referred to the Planning Commission for approval at a duly noticed public hearing.
 - b. The Community Development Director may also require a historical alteration permit application to be reviewed and approved by the planning commission at his/her discretion.
- 6. As part of the review process, the Community Development Director or Planning Commission may impose conditions on a project to bring the proposed work into compliance with the Secretary of the Interior's Standards.
- 7. The Community Development Director or Planning Commission decision to approve or deny a Historical Alteration Permit or to impose conditions on a project may be appealed in accordance with Chapter 18.112 (Appeals).
- C. Reconstruction of potential historical and historical resources shall also comply with the Secretary of the Interior's Standards and require a historical alteration permit as described under subsection B, above. If all of the conditions of reconstruction as defined in this chapter and by the Standards for Reconstruction cannot be met, then reconstruction should not be undertaken and CEQA analysis is required. Reconstruction, though not encouraged, may be a viable option, though rare.

18.60.080 – Historical Resource Demolition or Relocation Permit

- A. **When Required.** It is unlawful for any person to tear down, demolish, remove or relocate a potentially significant or significant historical resource, a resource that has been formally designated or listed on the City's adopted survey list, or which lies within an historic district, without first obtaining a Historical Resource Demolition or Relocation Permit as outlined below. Neither the Community Development Director nor the Building Official shall grant any permit to carry out such work without the prior approval of a historical resources demolition or relocation permit by the planning commission.
- B. **Application.** If a Historical Resource Demolition or Relocation Permit is required pursuant to Section 18.60.050, the following procedures will be followed in processing the permit application:
 - 1. Applications for a Historical Resource Demolition or Relocation Permit shall be submitted to the ~~Community Development~~Development Services Department for review and consideration by the Planning Commission. Applications shall be

accompanied by materials as required by the Community Development Director and reasonably necessary for the proper review of the project, including but not limited to information regarding the age and construction of a building or structure and building permit records.

2. City staff will review applications for compliance with the Secretary of the Interior's Standards and may require that the applicant deposit funds for the city to retain the services of a qualified historic consultant if necessary.
3. Environmental review of a Historical Resource Demolition or Relocation Permit application will be required as follows:
 - a. If the proposed demolition or relocation is in compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties, the potential impact on historical resources shall be considered less than significant and the project would be exempt from CEQA unless other factors are identified associated with the proposed project which could cause potentially significant environmental impacts.
 - b. If the proposed demolition or relocation is not in compliance with the Secretary of the Interior's Standards then CEQA review will be required.
4. Notice of public hearing for the Planning Commission consideration of a Historical Resource Demolition or Relocation Permit application shall be provided in accordance with Section 18.104.090 (Notice of Hearing).
5. The Planning Commission shall complete its review and shall render its decision after the conclusion of a public hearing on the application. In review of permits sought to wholly or partially relocate or demolish a potentially significant or significant historical resource, or resources within an historical resource site or historic district, the Planning Commission may approve or disapprove the issuance of the permit or permits. The Planning Commission may also approve the issuance of the permit with conditions to bring the proposed work into compliance with the Secretary of the Interior's Standards.
6. The Planning Commission decision to approve or deny a Historical Resource Demolition or Relocation permit may be appealed to the City Council in accordance with Chapter 18.112 (Appeals).
7. To move a designated historical structure listed on the National Register of Historic Places, the applicant must first obtain written approval from the Keeper of the National Register prior to the move to ensure that the resource will retain its National Register status; and
8. To move a designated historical structure that is not National Register listed but is a locally designated historical resource, the Community Development Director shall obtain sufficient information to ensure the new location substantially recreates the original location in terms of siting, setback, ordinal orientation and all other features that marked the original location, in order to retain its local register status.

18.60.090 – Archaeologically Sensitive Areas

► *Note: Subsection B.3 (Discovery of Human Remains) replaces existing Section 18.75.110.B.2.*

The following requirements apply to projects proposed within an area identified as archaeologically sensitive on the City's adopted archaeological sensitivity map.

A. Status Determination.

1. The City shall consult with the Northwest Information Center to determine if the project is located within or adjacent to a known archaeological site.
2. If the City determines that the project is located within or adjacent to a known archaeological site, the following requirements apply:
 - a. The project shall obtain a Historical Alteration Permit.
 - b. The project's CEQA review shall consider potentially significant impacts on archaeological resources and identify appropriate mitigation measures to be imposed as conditions of approval in addition to the standard conditions in Subsection B below.
 - c. The project shall comply with the standard conditions of approval in Subsection C below.
3. If the City determines that the project is not located within or adjacent to a known archaeological site, the applicant may either:
 - a. Prepare an archaeological survey for the site to identify necessary mitigation measures; or
 - b. Comply with the standard conditions of approval in Subsection C below. If the project complies with these standard conditions of approval, the City shall find that potentially significant impacts on archaeological resources are reduced to a less than significant level and that the preparation of an archaeological resources report is not required.

B. Standard Conditions of Approval.

1. **Applicability.** The conditions of approval in paragraphs 2 and 3 below apply to:
 - a. All projects located within or adjacent to a known archaeological site; and
 - b. Projects not located within or adjacent to a known which elected to comply with these conditions pursuant to A.3 above.
2. **On-Site Archaeologist.** An archaeologist shall be present on-site to monitor all ground-disturbing activities. If historical or archaeological artifacts are found during construction, the following protocol shall be followed:
 - a. Work within 30 feet of the artifacts shall halt immediately. And the archaeologist shall determine if the artifacts qualify as a unique archaeological resource as defined by this chapter.

- b. If the archaeologist determines that the artifacts are not a unique archaeological resource, the archaeologist shall submit to the Community Development Director a brief memorandum or letter that describes the artifacts, assesses their significance, and describes of the methods used to determine their significance. Construction may continue upon the Director's approval of the archaeologist's determination.
 - c. If the archaeologist determines that the artifacts qualify as a unique archaeological resource, the archaeologist shall submit to the Community Development Director an action plan that recommends measures to avoid or minimize impacts to the resource. The action plan shall be prepared in conformance with California Public Resources Code 21083.2. Construction may continue only after the Director's approval of the action plan.
3. **Discovery of Human Remains.** If human remains are discovered during construction, the project shall comply with all applicable state and federal laws, including California Health and Safety Code Section 7050.5 and CEQA Guidelines Section 15064.5(e).

18.60.100 – Maintenance and Repair of Historic Resources

- A. Requirement to Keep in Good Repair.** The owner, occupant or other person in actual charge of a historical resource, or an improvement, building or structure in an historic district shall keep in good repair all of the exterior portions of such improvement, building or structure as necessary to prevent deterioration and decay of any exterior architectural feature.
- B. Enforcement.** It shall be the duty of the Community Development Director and the Building Official to enforce this section.
- C. Ordinary Maintenance and Repair.** Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this chapter that does not involve a change in design, material or external appearance thereof
- D. Public Safety.** This chapter shall not prevent the construction, reconstruction, alteration, restoration, demolition or relocation of any such feature when the building official certifies to the Community Development Director that such action is required for the public safety due to an unsafe or dangerous condition which cannot be rectified through the use of the California Historical Building Code.

18.60.110 – Appeals

► *Note: Reference to general appeals procedures in Subsection A (General) replaces specific appeals procedures in existing Section 18.75.080 (Appeals).*

- A. General.** Decisions of the Community Development Director and Planning Commission as described in Subsection B and C below may be appealed in accordance with Chapter 18.112 (Appeals).
- B. Community Development Director Decisions.** The following decisions by the Community Development Director may be to the Planning Commission:
1. The decision to approve or deny alteration to a potentially historical or historical resource or site; and
 2. The decision to impose conditions on a project involving the alteration of a potentially historical or historical resource or site.
- C. Planning Commission Decisions.** The following decisions by the Planning Commission may be appealed to the City Council:
1. The determination made after a public hearing that an object, site or structure be placed on the local register as a designated historical resource or not be placed on the local register as a designated historical resource or historic district;
 2. The decision to grant or deny an approval to tear down, demolish, or relocate any improvement, or any portion thereof, which is a potentially historical or historical resource or site;
 3. The decision to approve or deny alteration to a potentially historical or historical resource or site;
 4. The decision to impose conditions on a project involving the alteration of a potentially historical or historical resource or site; and
 5. Any item acted on by the Planning Commission on appeal or referral from the Community Development Director.

18.60.120 – Enforcement and Penalties

- A. Methods of Enforcement.** In addition to the regulations of this chapter, other chapters of the Municipal Code and other provisions of law which govern the approval or disapproval of applications for permits or licenses covered by this chapter, the Community Development Director and Building Official have the authority to implement the enforcement thereof by any of the following means:
1. Serving notice requiring the removal of any violation of this chapter upon the owner, agent, occupant or tenant of the improvement, building, structure or land;

2. Calling upon the City Attorney to institute any necessary legal proceedings to enforce the provisions of this chapter, and the City Attorney is authorized to institute any actions to that end; and
 3. Calling upon the Chief of Police and authorized agents to assist in the enforcement of this chapter.
- B. Injunctive Relief.** In addition to any of the remedies described in Subsection A above, the City Attorney may maintain an action for injunctive relief to restrain or enjoin or to cause correction or removal of any violation of this chapter, or for an injunction in appropriate cases.
- C. Restoration.** Any person who demolishes, alters, or constructs a building or structure in violation of this act shall be required to restore the building or structure and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the city attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

18.60.130 – Preservation Incentives

► *Note: This section modifies existing Section 18.75.065 to make all historic resources eligible for incentives, not just local register resources.*

- A. Permit Fees.** The City Council may waive or reduce any processing fees for permits or other procedures for an owner of a designated historical resource undertaking work on the resource. The Community Development Director is authorized to accelerate the processing of any other required applications to comply with city requirements.
- B. Historic Preservation Funding Program.** The City of Morgan Hill may establish a funding program and guidelines for use by owners of a designated historical resource, as defined in this chapter. Funding subsidies may be available for an owner undertaking work on an historical resource who is prevented by economic constraints from completing work in compliance with the Secretary of the Interior's Standards. The Community Development Director may develop an application for requested subsidies. Evaluation criteria could include the significance of the historical resource, owner need and necessity for the work to be undertaken. All work undertaken shall meet the Secretary of the Interior's Standards for the Treatment of Historic Properties. Emergency measures to ensure the stability of a damaged designated historical resource shall be an allowable cost.
- C. Mills Act.** The City of Morgan Hill may maintain the provision of the Mills Act, adopted in 1972 by the State of California and amended in 1984 to allow an owner of a designated historical resource to have the property tax amount abated based on the provisions of the act. The owner and the City shall enter into an agreement which defines the actions to be taken by the owner to ensure the restoration, or protection and continued compatible use of the property.

- D. Marks Historical Rehabilitation Act.** The City of Morgan Hill may adopt provisions of the Marks Historical Rehabilitation Act. Under the provisions of this Act, the City of Morgan Hill may issue tax-exempt revenue bonds for the purpose of financing the historical rehabilitation of buildings with significance to the city of Morgan Hill, the State of California, or the United States.
- E. Historic Easements.** The City of Morgan Hill may participate in the development of a historic easement for a designated historical resource, including cultural/historic landscapes and all other historical resource types. The purpose of the easement is to protect the City's historical resources for the benefit of the community by allowing the owner to obtain a tax credit for the restoration, protection, or continued compatible use of the historical resource. The value of the revised deed restrictions may be held by the city or appropriate historical society or preservation organization with the expertise to oversee the enforcement of the easement for the current owner and any subsequent property owner.
- F. Historical Building Code.** Significant and designated historical resources shall be eligible to use the California Historical Building Code, which can allow for alternate methods of meeting building code requirements.
- G. Planned Development Overlay.** Owners of designated historical resources may submit an application for a Planned Development Overlay zoning of the property in accordance with Section 18.30.050. The Planned Development overlay may allow other conditional uses on the site beyond those uses allowed by the underlying base zoning district and/or different development standards including but not limited to setbacks, height and parking standards.

Chapter 18.64 – LANDSCAPING

Sections:

- 18.64.010 – Purpose
- 18.64.020 – Applicability
- 18.64.030 – Water Conservation in Landscaping Ordinance
- 18.64.040– Landscape Plans
- 18.64.050 – Required Landscape Areas
- 18.64.060– General Landscape Requirement
- 18.64.070 – Landscaping Maintenance and Enforcement

18.64.010 – Purpose

This chapter establishes landscaping standards to enhance the aesthetic appearance of developed areas in Morgan Hill and to promote the efficient use of water resources.

18.64.020 – Applicability

The requirements in this chapter apply to projects requiring a Design Permit as specified in Section 18.108.040 (Design Permits) and that involve either:

- A. The construction of new buildings; or
- B. Additions that increase by 25 percent or more the floor area or market value of one or more buildings on the property.

18.64.030 – Water Conservation in Landscaping Ordinance

In addition to the requirements of this chapter, all applicable development in Morgan Hill shall also comply with Chapter 18.148 (Water Conservation in Landscaping) as required by the California Water Conservation in Landscaping Act (Government Code Section 65591 et seq.). If conflicts occur between Chapter 18.148 and this chapter, the more restrictive shall control.

► *Note: This section is new.*

- A. **Landscape Plan Required.** All projects subject to the requirements of this chapter shall submit a landscape plan as part of the Design Permit application and subsequent building permit applications.
- B. **Required Contents.** Landscape plans shall include the following features and information:
 - 1. Site boundaries.

2. Existing conditions on the property, including contours and existing structures.
3. Structures immediately adjacent to the property.
4. New structures and improvements proposed as part of the development project.
5. Existing landscaping, trees, and vegetation to be retained specifying plant location, species, and size. Details of existing trees shall also include tree diameter measured 48 inches above existing grade and outer limit of tree canopy.
6. New landscaping proposed as part of the development project specifying plant location, species, and size.
7. Irrigation plan specifying the location, type, and size of all components of the irrigation system.
8. Proposed grading.
9. Additional information as determined by the ~~Community Development~~Development Services Department to demonstrate compliance with the requirements of this chapter.

C. Review and Approval. The ~~Community Development~~Development Services Department shall review all landscape plans to verify compliance with this chapter. Landscape plans shall be approved by the review authority responsible for approving the Design Permit required for the proposed project.

D. Changes to Approved Landscape Plans.

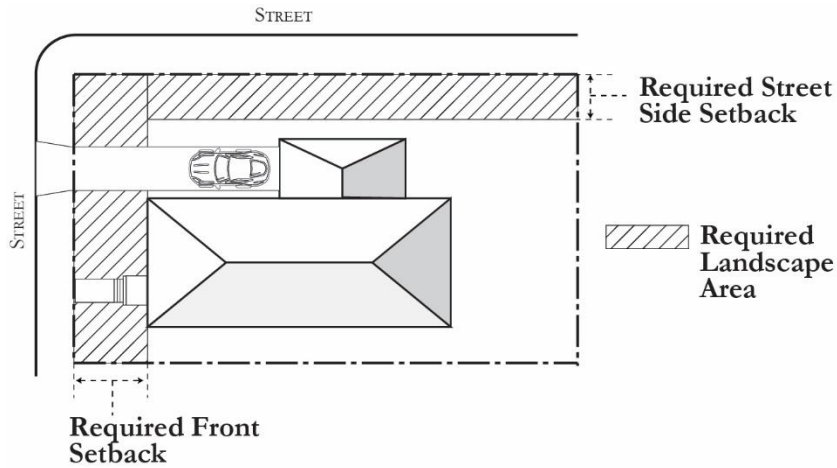
1. Substantial modifications to an approved landscape plan shall be allowed only by the review authority which approved the landscape plan.
2. The Community Development Director may approve minor modifications to a landscape plan previously approved by the Planning Commission. Minor modifications are defined as changes to a landscape plan that do not alter the general design character of the landscaped area or alter a feature of the landscaped area specifically required by the Planning Commission.

18.64.040 – Required Landscape Areas

► *Note: This section is new, except for 10% landscaping requirement in CN, which is existing.*

A. Residential Zoning Districts.

1. All required front and street side setback areas, excluding areas required for access to the property, shall be landscaped and maintained. See Figure 18.64-1.
2. Landscaping may consist of any combination of living plants, such as trees, shrubs and grass or related natural features, such as rock, stone, or mulch. Decorative hardscape featuring pervious materials is permitted within required landscaping areas.

FIGURE 18.64-1: REQUIRED LANDSCAPED AREA IN RESIDENTIAL ZONING DISTRICTS**B. Non-Residential Zoning Districts.**

1. The minimum landscaped area on a site for non-residential zoning districts is shown in Table 18.64-1.
2. In the MU-D and MU-N, and MU-F zones, outdoor dining areas, courtyards, and other similar quasi-public areas may count toward landscaping requirements. In all other zoning districts these areas may not count toward landscaping requirements.

TABLE 17.64-1: MINIMUM LANDSCAPED AREA IN NON-RESIDENTIAL ZONES

Zone	Minimum Landscaped Area
MU-D, MU-N, MU-F	5%
CN, CG, CH, CS	10%
All Other Zones	As determined by the Design Permit review authority

3. Except in the industrial zoning district, all required front and street side setback areas shall be landscaped, excluding areas required for access to the property and public or quasi-public open space such as courtyards and outdoor seating.

18.64.050 – General Landscape Requirement

► *Note: This section is new.*

A. General Standards.

1. **Plant Selection.** A minimum of 90 percent of plants and trees shall be drought-tolerant as defined by the Water Use Classification of Landscape Species (WUCOLS). Native plants adapted to the local climate are preferred.
2. **Turf Lawns.**
 - a. Turf areas shall be limited to 25 percent of the landscaped area. The Planning Commission may approve larger areas if the lawn area provides functional open space.
 - b. Drought-tolerant grass species shall be used exclusively.
 - c. Turf shall not be used on berms, slopes, or median islands where runoff is a problem.
3. **Slopes.** Turf and high water use plants shall not be planted on berms and slopes greater than 25 percent.
4. **Plant Groupings.** Where irrigation is proposed, plants shall be grouped in separate hydrozones (i.e., plants within each irrigation valve area shall have the same watering requirements).
5. **Water Features.** Decorative water features (e.g., fountains, ponds, waterfalls) must be approved by the Planning Commission and shall have recirculating water systems.
6. **Watering Times.** Watering shall start after 8:00p.m. and end before 10:00 a.m.
7. **Public Safety.** Plant species shall be selected and located so that at maturity they do not interfere with pedestrian, bicycle, or vehicular circulation and do not conflict with overhead lights or utility lines.

B. Irrigation and Water Efficiency.

Irrigation systems shall be designed to avoid runoff, low head drainage, overspray, and other similar conditions where water flows outside of landscaped areas. Irrigation systems shall feature the following equipment:

1. Irrigation systems shall meet a minimum irrigation efficiency of 75 percent.
2. Separate landscape water meters for landscape areas exceeding 5,000 square feet.
3. Irrigation controllers capable of percent adjustment, multiple programming, and rain sensor.
4. Overhead sprays shall have a precipitation rate of no more than 0.75 inches per hour.

5. Separated valves and circuits based on water use and sun exposure. Separate valves for turf and non-turf and berm areas are required.
6. Sprinkler heads and emitters selected for proper area coverage, application rate, operation pressure, adjustment capability, and ease of maintenance.
7. Rain-sensing override devices are required for all irrigation systems.
8. Drip or bubble irrigation are required for all trees.
9. State-approved back flow prevention devices shall be installed on all irrigation systems

C. Timing of Installation. Landscaping systems shall be installed prior to final building permit inspection or certification of occupancy.

18.64.060 –Landscaping Maintenance and Enforcement

The following maintenance requirements and enforcement procedures apply to landscaping installed as part of a Design Permit approved by the City.

A. Maintenance Required.

1. **Approved Plans.** Landscaping shall be maintained consistent with the plans approved as part of the Design Permit. Any significant alteration to the landscaping requires Community Development Director approval.
2. **Dead and Dying Plants.** All landscaping shall be maintained free of physical damage or injury from lack of water, excess chemical fertilizer or other toxic chemical, blight or disease. Dead or dying plants shall be removed and replaced with landscaping of similar size and maturity.
3. **Weed Removal.** Landscaping shall be kept free from weeds and undesirable grasses.
4. **Tree Pruning.** Trees shall be allowed to grow their natural size and shape. Periodic pruning shall be as appropriate for the health of the tree species and may not exceed 25 percent of the tree height or volume at any given time.
5. **Tree Topping/Heading Cuts.** Topping/heading cuts that reduce a tree's size and height by shortening of limbs or branches back to a predetermined crown limit is prohibited unless the Community Development Director approves a tree removal/cutting permit in accordance with Municipal Code Chapter 12.32 (Restrictions on Removal of Significant Trees).

B. Landscape Maintenance Agreements and Bonds

1. **General.**
 - a. Prior to the issuance of a certificate of occupancy, the Community Development Director may require a landscape maintenance agreement

and/or a landscape maintenance bond to guarantee the proper maintenance of landscaping installed for a development project.

- b. Landscape maintenance agreements and bonds shall not be required for landscaping maintained by a homeowners association.
2. **Landscape Maintenance Agreement.** When required, landscape maintenance agreements shall guarantee maintenance of landscaping for a minimum of two years following installation.
3. **Landscape Maintenance Bond.**
 - a. The Community Development Director may require an applicant to submit a landscape maintenance bond in addition to or instead of a landscape maintenance agreement.
 - b. Landscape maintenance bonds shall be in an amount equal to 100 percent of the value of landscaping and irrigation systems for the project, shall be held by the City for two years, and shall be administered in accordance with Section 18.104.180 (Performance Guarantees).

C. Compliance and Enforcement.

1. **Notification of Violation.** Whenever the Community Development Director determines that landscaping is maintained in violation of approved Design Permit plans, the Director may require, upon 30 days' written notice, that the property owner correct the violation. The Director's determination of violation may be appealed to the Planning Commission in accordance with Chapter 18.112 (Appeals).
2. **City Correction of Violation.** If the property owner does not correct violation the Director may cause work to be done to bring the landscaping into compliance. The method of reimbursement for such work shall be stated in the landscape maintenance agreement signed by the permit holder and may include forfeiture of a landscape maintenance bond up to 100 percent of the cost of landscape improvements.

Chapter 18.68 – NONCONFORMING USES AND STRUCTURES

Sections:

- 18.68.010 – Purpose
- 18.68.020 – Applicability
- 18.68.030 – General
- 18.68.040 – Nonconforming Parcels
- 18.68.050 – Nonconforming Use of Land
- 18.68.060 – Nonconforming Use of Structures
- 18.68.070 – Nonconforming Structures
- 18.68.080 – Findings

18.68.010 – Purpose

This chapter establishes regulations for nonconforming parcels, uses, and structures. These regulations are intended to:

- A. Allow for the development and use of legal nonconforming parcels;
- B. Ensure that nonconforming uses and structures do not adversely impact neighboring properties;
- C. Allow for the limited enlargement or intensification of nonconforming uses and structures;
- D. Allow for limited repairs and maintenance to nonconforming structures; and
- E. Provide for the elimination of nonconforming uses as appropriate due to abandonment, obsolescence, and destruction.

18.68.020 – Applicability

This chapter applies to existing parcels, uses, and structures that do not conform to the regulations of the zoning district in which they are located. Nonconforming signs are subject to the requirements in Chapter 18.88 (Signs).

18.68.030 – General

► *Note. Sections B (Legally Established Defined) and C (Burden of Proof) are new.*

- A. **Continuation.** A nonconforming parcel, use, or structure may be continued if it was legally established in compliance with all applicable regulations in effect at the time it was established.

- B. Legally Established Defined.** To be considered legally established, a legal nonconforming parcel, use, or structure shall have been physically constructed or in existence, not merely contemplated. Conditional Use Permits, Variances, Building Permits, or other permits not exercised within the required time do not establish legal nonconforming status.
- C. Burden of Proof.** Any person asserting a right to a nonconforming use or structure has the burden of proof to demonstrate that the nonconformity was legally established.

18.68.040 – Nonconforming Parcels

- A. Development Permitted.** Legally established parcels with nonconforming dimensions (e.g., parcel width and depth) shall be permitted all development rights of the zoning district in which it is located.
- B. Conformance with Standards.** Development on legal nonconforming parcels shall comply with all setback, building coverage, parking, and other standards of the applicable zoning district, except as allowed by Subsection C below.
- C. Multi-Family Density.** On legally established existing lots which do not comply with minimum area standards, the maximum density of a multi-family use shall be five percent less than normally required in the applicable zoning district. For example, in a zoning district with a maximum density of 20 units per acre, the maximum density for a multi-family use on a lot that does not comply with the minimum area standard shall be 19 units per acre.
- D. Boundary Adjustments.** The boundaries of a nonconforming parcel may not be adjusted in any way that decreases the parcel area or reduces the parcel width or depth.

18.68.050 – Nonconforming Use of Land

- A. Continuation Permitted.** A nonconforming use of land may continue so long as:
1. The nonconforming use is not enlarged, increased, or extended to occupy a greater area of land; and
 2. The nonconforming use is not moved in whole or in part to any other portion of the lot or parcel.
- B. Cessation of Use.** If any such nonconforming use of land ceases for a period of more than 90 days, any subsequent use of such land shall conform to the regulations of the zoning district in which the land is located.

18.68.060 – Nonconforming Use of Structures

- A. Change in Ownership, Tenancy, or Management.** A change in ownership, tenancy, or management of a nonconforming use shall not affect its legal nonconforming status.

- B. Resuming a Nonconforming Use.** A nonconforming use changed to a conforming use shall not return to a nonconforming use.
- C. Replacement of a Nonconforming Use.** A nonconforming use may not be replaced by another nonconforming use.
- D. Intensification of Use.**
1. The enlargement of a structure or site occupied by a nonconforming use, or the intensification in any way of the operation of a nonconforming use, shall require the approval of an Administrative Use Permit.
 2. To approve a proposed intensification to a nonconforming use, the Community Development Director shall make all Administrative Use Permit findings (Section 18.108.020) in addition to the findings in Section 18.68.080 (Findings).
- E. Discontinuation of Use.** A nonconforming use discontinued for six consecutive months or for 12 months during any two-year period shall not be reestablished and may be replaced only by a conforming use.
- F. Uses Without Required Permits.** A legally established use which is allowed in a zoning district but which lacks a required permit (e.g., Administrative Use Permit, Conditional Use Permit) shall be considered a nonconforming use until the use receives the permit as required by the Zoning Code.

18.68.070 – Nonconforming Structures

► *Note. This section makes the following changes to existing nonconforming structure regulations: adds that a modification to the nonconforming aspect of a structure that does not increase or exacerbate the nonconformities is allowed with an Administrative Use Permit and special findings; clarifies that an alteration that increase or exacerbate the nonconforming aspect of the structure is allowed with a Variance; adds definition of “reconstructed”; adds new requirement for moved structures.*

This section identifies allowed modifications to nonconforming structures, summarized in Table 18.68-1.

TABLE 18.68-1: ALLOWED MODIFICATIONS TO NONCONFORMING STRUCTURES

Project Affecting a Nonconforming Structure	Permit Required [1]
Nonstructural repairs, maintenance, and interior alterations	None
Structural repairs, modifications, and additions that do not alter or affect the nonconforming aspect of the structure	None
Structural repairs, modifications, and additions that alter or affect the nonconforming aspect of the structure	Design Permit

Project Affecting a Nonconforming Structure	Permit Required [1]
Structural repairs, modifications, and additions that increase or exacerbate the nonconforming aspect of the structure	Variance
Reconstruction of an involuntarily damaged or destroyed residential structure	Design Permit

Notes:

[1] The proposed project may require permits and approvals for other reasons not related to its nonconforming status. For example, additions or enlargements to a single-family dwelling often requires a Design Permit.

A. Alterations Permitted By-Right.

1. Maintenance, nonstructural repairs, and nonstructural interior alterations to any portion of a nonconforming structure are permitted if the changes and improvements do not enlarge or extend the structure.
2. Structural modifications to a nonconforming structure that do not alter or affect the nonconforming aspect of the structure are permitted. For example, an addition to a structure with a non-conforming setback is permitted if no structural changes are made to the portion of the structure projecting into the required setback, and if the addition complies with all setback, height, floor area ratio, and other applicable development standards.

B. Alterations Requiring a Design Permit.

1. Structural repairs and improvements that affect the nonconforming aspect of a nonconforming structure are allowed with a Design Permit if the improvement does not increase or exacerbate the nonconformity. For example, structural repairs to a building wall within a required setback are permitted with a Design Permit if the wall is not moved closer to the property line and the length of the wall within the required setback is not increased.
2. To approve such an alteration, the Community Development Director shall make all Design Permit findings (Section 18.108.040) in addition to the findings in Section 18.68.080 (Findings).

C. Alterations Requiring a Variance.

1. Alterations to a non-conforming structure that increase or exacerbate the nonconformity requires a Variance. For example, a remodel that increases the length of an existing building wall located within a required setback is allowed only with the approval of a Variance.
2. To approve such an alteration, the Planning Commission shall make all Variance findings (Section 18.108.100) in addition to the findings in Section 18.68.080 (Findings).

D. Damage or Destruction. Except as allowed by Subsection E below, a nonconforming structure damaged or destroyed for any reason shall be brought into full compliance with the requirements of the Zoning Code if the cost of reconstruction exceeds fifty percent of its market value as determined by the County Assessor on the last equalized assessment roll at the time of its destruction.

E. Involuntary Damage or Destruction – Residential Structures.

1. If a legally established nonconforming building occupied by a residential use is damaged or destroyed by earthquake, fire, flood, or other calamity, the structure may be reconstructed as it existed and may be continued as a legal nonconforming structure with the approval of a Design Permit.
2. “Reconstructed” means rebuilding a damaged or destroyed structure in a manner similar but not identical to the original structure. A reconstructed structure generally recreates the original building footprint, mass, and height, but may deviate from design details such as architectural design and the arrangement of doors, windows, and rooflines.
3. The City may attach conditions of approval as necessary to protect the public health, safety and welfare, including requirements to reduce or eliminate previously existing nonconformities.
4. Reconstruction of damaged or destroyed buildings may not increase or exacerbate previously existing nonconformities or create new nonconformities.
5. The construction of the replacement structure must begin within 24 months of the date of the calamity which damaged or destroyed the structure.

F. Moved Structures. A nonconforming structure that is moved to a new location shall conform to all standards of the applicable zoning district.

G. Nonconforming Screening, Fences, and Landscaping.

1. Legally established nonconforming screening, fences, and landscaping may continue and remain except as required by Paragraph 2 below.
2. For additions or renovations that increase by 25 percent or more the floor area or market value of one or more buildings on a property, any nonconforming screening, fences, and landscaping shall be brought into compliance with the requirements of the applicable zoning district.

18.68.080 – Findings

► *Note: This section is new.*

The Community Development Director may approve an Administrative Use Permit for a nonconforming use or structure if all of the following findings can be made in addition to the findings in Section 18.108.020 (Administrative Use Permits):

- A.** Available evidence indicates that the nonconforming use was legally established.
- B.** The nonconforming use has not resulted in a notable negative impact or nuisance to the surrounding area.
- C.** The nonconforming use is compatible with the general character of the surrounding area.
- D.** The proposed action is consistent with the purpose and intent of the applicable zoning district.

Chapter 18.70 – GEOLOGIC HAZARDS

Sections:

- 18.70.010 – Purpose
- 18.70.020 – Definitions
- 18.70.030 – City Geologic Map Modification
- 18.70.040 – Geologic Clearance
- 18.70.050 – Geologic Evaluations
- 18.70.060 – Waiver of Geologic and Seismic Hazards Investigation Report Requirement
- 18.70.070 – Owner Obligations
- 18.70.080 – Additional Regulations
- 18.70.090 – Consistency with Other Regulations

► *Note: This chapter carries forward existing Chapter 18.45 (Geologic and Seismic Hazards Zones Combining District) – no substantive changes have been made.*

18.70.010 – Purpose

The purposes of this chapter is to:

- A. To prevent increases in the potential for loss of life, injury and property damage caused by geologic hazards in Morgan Hill;
- B. To specify geologic maps which will serve as a consistent basis for evaluating development applications;
- C. To control land development in the city in a manner that avoids or mitigates the potential effects of known geologic hazards;
- D. To help guide the City in making decisions regarding maintenance and repair of existing City facilities and in making decisions regarding the siting of future facilities;
- E. To protect the City from liability of failure to consider available geologic information in making development decisions; and
- F. To comply with the requirements of the California Seismic Hazards Mapping Act (Public Resources Code Section 2690 et seq.) in a manner that considers the State's Special Publication 117A: "Guidelines for Evaluating and Mitigating Seismic Hazards in California," and with consideration of the "Recommended Procedures for Implementation of DMG Special Publication 117 Guidelines for Analyzing and Mitigating Landslide Hazards in California" (published by the Southern California Earthquake Center) as applicable.

18.70.020 – Definitions**A. Terms Defined.** Terms used in this chapter are defined as follows:

1. "Acceptable level of risk" is that level of risk that provides reasonable protection of the public safety, though it does not necessarily ensure continued structural integrity and functionality of the project.
2. "City geologic hazards map" is the geologic map (1991) and ground movement potential map (1991) prepared at a scale of one inch equals two hundred feet by Pacific Geotechnical Engineering, subject to modification provided for in Section 18.45.030.
3. "City geologic hazard zones" are areas identified on the city geologic hazard map in the following ground movement potential categories: "Suf" (only if a sensitive use), "Sun (only if a sensitive use)", "SlS (only if a sensitive use)", "Slq", "Sgw", "Puf", "Ps", "Pdf", "Prf", "Pd", "Paf", "Ms" or "Md".
4. "Director" is the Community Development Director.
5. "Discretionary approval" is any approval granted pursuant to Title 17 or Title 18 of the Morgan Hill Municipal Code.
6. "Geologic report" is either or both of the following, as required and deemed appropriate for the site and proposed project by the Director:
 - a. an "engineering geologic report", which means that document prepared and signed by an engineering geologist; and/or
 - b. a "geotechnical engineering report", which means that document prepared and signed by a registered geotechnical engineer.
7. "Off-site" is any seismic or geologic hazards not located within the project site which is identified in a geologic investigation or geotechnical report that could adversely affect the project site or be affected by the project.
8. "Project," as used in this chapter, means:
 - a. Any subdivision of land which is subject to the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7 of the Government Code, and which contemplates the eventual construction of structures for human occupancy; and
 - b. Structures for human occupancy.
 - c. "Project" does not include repairs, alterations or additions to any structure within a Seismic Hazard Zone, which do not exceed either fifty percent of the value of the structure or fifty percent of the existing floor area of the structure.
9. "Qualified geologist" is either or both of the following, as specified and deemed appropriate for the site and proposed project by the Director:

- a. A certified engineering geologist pursuant to the California Geologist and Geophysicist Act (Business and Professions Code section 7800, et seq.);
 - b. A registered professional engineer certified as a geotechnical engineer pursuant to the California Professional Engineers Act (Business and Professions Code sections 6700—6799).
10. "Seismic Hazard Zone" means those areas that are within either one or both of the State Seismic Hazard Zone and/or the City geologic hazard zone.
11. "Sensitive use" means:
- a. Large dams;
 - b. Manufacturing, storage or handling of hazardous materials;
 - c. Facilities critically needed for services after a disaster: hospitals, ambulance services, fire stations, police stations, telephone exchanges, radio and TV stations, emergency operation centers;
 - d. Facilities whose continuing function is critical: power plants, power intertie, sewage treatment plants, water plants;
 - e. Small dams whose failure would expose downstream population to injury;
 - f. Critical transportation links: regional highways, bridges, rail lines, overpasses, tunnels;
 - g. Major local utility lines and facilities, including power substations, gas and water mains;
 - h. Facilities highly desirable for shelter after a disaster: civic buildings;
 - i. Any building three or more stories in height;
 - j. Public and private schools and child care;
 - k. Public assembly places with capacity of fifty persons or more;
 - l. Gas stations;
 - m. Health care clinics, convalescent homes;
 - n. Hotels and motels;
 - o. Churches;
 - p. Public assembly places with capacity for fifty to two hundred ninety-nine persons; and
 - q. Industrial uses or facilities.
12. "State Seismic Hazard Zones" are areas identified as prone to earthquake-induced landsliding or liquefaction on maps compiled by the California State Geologist, pursuant to the Seismic Hazard Mapping Act (Public Resources Code Section 2690

et seq.) and the policies and criteria of the State Mining and Geology Board and any succeeding statute or regulation.

- B. Terms Not Defined.** Words and phrases not defined in this section shall be interpreted so as to give this chapter its most reasonable meaning and application.

18.70.030 – City Geologic Map Modification

Further study may indicate the need to modify the city geologic maps (geologic map and ground movement potential map) by adjusting the boundaries between map units or changing the designation of map units. Modifications can be made as follows:

- A. Applicant Initiation.** An applicant, property owner, or authorized representative of a property owner may initiate proceedings to modify the geologic maps.
1. A person applying for a modification of the geologic maps shall document the reasons for modification with a map at a scale of one inch equals two hundred feet or larger and a report prepared by a certified engineering geologist.
 2. The engineering geologist employed or retained by the city shall review all such applications and prepare a written report to the Community Development Director containing his or her findings and recommendations. The modification may be approved by the Community Development Director if the Director finds:
 - a. That new information has been provided which demonstrates that the existing boundary or unit designation is inaccurate; and
 - b. That the proposed change will correct and update the maps.
 3. Decisions by the Director may be appealed by the applicant in the manner specified in Chapter 18.112 (Appeals).
- B.** Modification to the maps may be initiated by the City Council, in which case the City Council shall request a recommendation by the Community Development Director, the engineering geologist employed or retained by the City, and the Planning Commission.
1. The City Council shall hold a noticed public hearing on the proposed modification.
 2. Following the public hearing, the City Council may modify the maps, only if the Council finds:
 - a. That new information has been provided which demonstrates that the existing boundary or unit designation is inaccurate; and
 - b. That the proposed change will correct and update the maps.
 3. If land has been stabilized through engineering solutions, the engineering geologist employed or retained by the City may recommend to the Director that such stabilization be annotated on the geologic maps to reflect the increase in relative stability and that development be allowed to occur consistent with the engineering

solution. Upon concurrence by the Community Development Director, the maps may be annotated as directed.

4. Changes to the maps shall be posted within thirty days of approval of a map modification. Each change will be identified on the map by date, file number or other means of identification determined appropriate by the Community Development Director.
5. Maintenance of Maps and Records. The ~~Community Development~~Development Services Department shall be responsible for maintaining the geologic map and ground movement potential map and records of actions modifying the maps. Up-to-date maps and copies of geotechnical and engineering geology reports will be kept in the ~~Community Development~~Development Services Department.

18.70.040 – Geologic Clearance

No discretionary approval for development, grading permit or building permit shall be issued for any project located in the G overlay zone unless the Director has first approved an application for geologic clearance pursuant to this chapter.

A. Geologic Clearance Application.

1. The applicant may simultaneously file an application for geologic clearance and for any discretionary approval for development, grading permit or building permit.
2. An application for geologic clearance pursuant to this section shall be submitted to the Director on the form provided by the City.
3. All application fees shall be paid at the time an application is filed, in the amount set forth in the schedule of fees adopted by resolution of the City Council. The Director may require the applicant to enter into an agreement with the city for geologic review services by a qualified geologist employed or retained by the city, in an amount as determined needed to pay for the full costs of the review associated with the application for geologic clearance.

B. Conditions of Geologic Clearance. The Director, or any appellate body, may impose conditions on the geologic clearance. Such conditions may include, but are not limited to:

1. Mitigation measures recommended in the geotechnical report;
2. Slope stabilization;
3. Surface and subsurface drainage control;
4. Off-site improvements to mitigate a geologic hazard which potentially affects either the site proposed for development or applicable off-site areas;
5. Use restrictions to avoid or mitigate hazardous geologic conditions;
6. Implementation of an approved erosion control plan; and

7. Adequate guarantees that all private improvements located within a Seismic Hazard Zone will be properly maintained.

C. Acknowledgment of Hazards. Upon the approval of an application for geologic clearance and where the geologic report proposes mitigation of hazards to an acceptable level of risk, the City may require, as a condition of issuance of the building permit or of a development agreement that all property owners of property within the proposed project sign a statement acknowledging the specific geologic hazards reported in the geologic report and accept the associated risks and responsibilities. The City may require recordation of the acknowledgment as a deed restriction recorded on title to the property. The acknowledgment statement shall contain the following:

1. The names and signatures of property owner, including holders of security interests.
2. The street address and assessor's parcel number of the subject property.
3. A map depicting the subject property signed and stamped by a licensed land surveyor or a registered engineer licensed to practice land surveying.
4. A legal description of the subject property signed and stamped by a licensed land surveyor or a registered engineer licensed to practice land surveying.
5. The title, date and authors of all geologic reports prepared or relied on for the proposed land use.
6. The following statement: "The undersigned owners hereby acknowledge the geologic conditions identified in the referenced reports, agree to mitigate the hazards to the extent feasible, accept all risks associated with geologic hazards including any unidentified hazards, and agree to indemnify, defend, and hold harmless the City of Morgan Hill and its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, any development activity or geologic hazards related to this property. This acknowledgment runs with the land and is binding on the undersigned and all of their successors, heirs and assigns."

D. Revocation and Suspension. A geologic clearance may be revoked or suspended whenever the Director determines that any of the following circumstances has occurred:

1. The geologic clearance was granted in error, was granted on the basis of incorrect or misinterpreted information, or was granted in violation of any law, ordinance or regulatory provision.
2. The review upon which the geologic clearance was granted was incomplete and further geologic information or analysis is necessary.
3. The findings made pursuant to Section 18.45.100 are incorrect.
4. There is sufficient uncertainty about any geologic hazard, either on or off-site, which makes it reasonable to require further geologic evaluation.

5. Scientific or technological advancement, a change in geologic conditions, or previously unknown facts or geologic analysis make it reasonable to require further geologic evaluation.
 6. The development proposal upon which the geologic clearance is based is modified and the geologic evaluation does not address the project as modified.
- E. Notice.** Notification of the denial of the geologic clearance, the issuance of such geologic clearance with conditions, or the revocation or suspension of such geologic clearance, shall be mailed to applicant, postage prepaid, at the address given for purposes of such notice on the application.
- F. Appeal.** The applicant may appeal the denial, revocation or suspension of the geologic clearance or any condition imposed on the geologic clearance pursuant to the applicable appellate provisions set forth in Chapter 18.64 (Appeals) of this code.
- G. Issuance of Geologic Clearance.** No geologic clearance shall be issued unless the Director, based on an independent review of a geologic report, finds that the nature and severity of the seismic and geologic hazards at the project site have been adequately evaluated in a geologic report and appropriate mitigation measures have been proposed. For the purpose of the review, the Director shall consult with a qualified geologist employed or retained by the City, who will advise whether the site-specific investigation is sufficiently thorough, the findings regarding identified hazards are valid, and the proposed mitigation measures achieve an acceptable level of risk. The issuance of a geologic clearance shall not be construed as a determination that the project site is free from any geologic hazard. Such clearance shall mean only that based on the information provided, it is the judgment of the Director or the city that any geologic hazard or risk will be mitigated to an acceptable level of risk as defined in this chapter.

18.70.050 – Geologic Evaluations

- A. Geologic and Seismic Hazards Investigation Report.** The geologic report shall be prepared by a qualified geologist, as specified and deemed appropriate to the site and proposed project by the Director. The geologic report shall contain:
1. Project description.
 2. Site-specific evaluations of the seismic and geologic hazards affecting the project. The evaluation shall identify the portions of the project site containing seismic and geologic hazards and describe the geologic and geotechnical conditions at the project site, including an appropriate site location map showing the locations of such hazards.
 3. Identification of any known off-site seismic or geologic hazards.
 4. Recommendation for appropriate mitigation measures that will reduce geologic or seismic risk to acceptable levels of risk.

5. Name of report preparer(s), and signature(s) of the qualified geologist; and the author or author's license number(s) and expiration date(s).
6. A geologic report prepared pursuant to this chapter may be in combination with or as part of the geologic report prepared pursuant to the procedures established under Section 18.30.060 (Active Fault Surface Rupture Overlay Zone).

B. Geologic Investigation. Any geologic exploration or investigation for the purpose of completing a geologic report shall comply with the following:

1. An investigation study plan containing proposed scope of the investigation and mitigation for any dust, erosion, habitat or other impacts resulting from any excavation or boring activities shall be submitted to the Director for approval before commencement of the investigation.
2. The investigative study shall include, at a minimum, a slope stability analysis and subsurface and/or reconnaissance level investigation, to:
 - a. Establish the boundaries, depth and characteristics of each landslide within the study area(s) which could affect or be potentially affected by the development; and
 - b. Assess the static and seismic stability of landslides identified in the subarea which could affect or be potentially affected by the development including, but not limited to landslides identified in Subsection B.1., above; and
 - c. Identify current geologic conditions and potential future groundwater conditions which could affect or be potentially affected by the development; and
 - d. Evaluate the potential for future earth movement which could affect or be potentially affected by the development and its possible effect on public and private property; and
 - e. Identify and recommend adequate mitigation of any geologic hazard within the study area(s) which could affect or be potentially affected by the development.
3. The subsurface exploration, as applicable, and slope stability analysis shall include but not limited to all of the following items as specified and deemed appropriate for the site and proposed project by the Director:
 - a. Deep, continuously sampled or cored borings drilled to a depth sufficient to penetrate all potential critical landslide rupture surfaces; and
 - b. Large diameter borings; and
 - c. Installation and monitoring of piezometers or groundwater monitoring wells to evaluate groundwater conditions; and
 - d. Exploratory trenching to evaluate the surface, geologic structure, fault/shear zones, and toe(s) of identified landslide(s); and

- e. Geophysical logging of boreholes; and
 - f. Laboratory shear strength testing.
4. A long-term study shall be conducted, unless the investigative study demonstrates, to the satisfaction of the Director, that:
- a. No deep-seated active or potentially unstable landslide exists which could affect or potentially be affected by the proposed development such that more than an acceptable level would be created; or
 - b. The proposed development site and any new, expanded or upgraded infrastructure serving the development will not be endangered by deep-seated active or potentially unstable landsliding such more than an acceptable level of risk would be created and will not increase the danger that any other property or public improvements will be impacted by potentially unstable landsliding, such that more than an acceptable level of risk would be created; or
 - c. Implementation of recommendations presented in the report of the investigative study will mitigate to an acceptable level of risk any identified risks associated with a deep-seated active or potentially unstable landslide which could affect or be potentially affected by the development or any new, expanded or upgraded infrastructure.

C. Long-term Study. If required by the Director pursuant to Section 18.45.110, the applicant shall submit a long-term study plan for approval by the Director and shall conduct such study in preparation of the geologic report.

- 1. The purpose of the long-term study is to better characterize deep-seated active or potentially unstable landslides, which could affect or potentially be affected by the proposed development, determine the depths, direction and area of movement, define the limits of sliding, determine the rate of movement over time, help determine the mechanism of movement, and verify that implemented mitigation measures have been effective in providing for an acceptable level of risk. The long term study shall include, at a minimum, continuous monitoring and analysis to address slope stability under both static and seismic conditions.
- 2. The qualified geologist employed or retained by the city shall review the completed report of the long-term study in order to advise the Director and city in determining whether or not the study has identified adequate mitigations of risks to acceptable levels of risk for large, deep-seated, active or potentially unstable landslides within the subregional study area(s) which could affect or potentially be affected by the proposed development.
- 3. The Director shall provide the applicant with a notice following any determination regarding the requirement of a long-term study or the adequacy of the mitigations identified in the long-term study.
 - a. The notice shall be provided as set forth in Section 18.45.070.

- b. The Director's determination shall become final at the close of business on the tenth business day after the notice was mailed.
 4. Before a determination becomes final as provided in Subsection C above, the applicant may appeal the Director's final determination under this section pursuant to the applicable appellate provisions set forth in Chapter 18.64 of this code.

D. Consultant Services. If an applicant has agreed in writing to bear the full cost of the consultant services, the Director may select and retain an independent qualified geologist as consultant(s) to the City to provide additional information and analysis to be considered by the Director or an appellate body in the application review or appeal process.

 1. The applicant shall, pursuant to a written agreement, deposit with city a sum of money, adequate to fully cover the cost of the consultant(s) services prior to the consultant(s) review of the application or record on appeal and any fees related thereto.
 2. Nothing prepared or recommended by the consultant(s) shall limit the discretion of the Director, or any appellate body on appeal, in considering all information available to it in making the findings set forth in this chapter.

18.70.060 – Waiver of Geologic and Seismic Hazards Investigation Report Requirement

- A.** For a specific project, the Director may waive the requirements for a geologic report under Section 18.45.090 if he or she finds and determines that the geologic or geotechnical conditions at the project site are such that public safety is adequately protected and no mitigation is required. This finding shall be based on the recommendation and advice of a qualified geologist employed or retained by the City, or based on a report prepared by a qualified geologist presenting evaluation of sites in the immediate vicinity having similar geologic and geotechnical characteristics which shall be reviewed in the same manner as a review of a geologic report set forth in Section 18.45.090. The Director shall set forth such determination in writing, citing the reasons for a waiver. For any waiver of the requirement for a geologic report granted for a project located in an area identified as State Seismic Hazard Zones, the Director shall also require a report prepared by a qualified geologist, and provide a written commentary that addresses the report conclusions and justifications for applying the conclusions contained in the report to the project site. The Director shall record such waiver with the county recorder and file a separate copy, together with the report and commentary, with the State Geologist within thirty days of the waiver.
- B.** Notwithstanding subsection A above, if a project consists of single-family wood-frame or steel-frame dwelling(s) not exceeding two stories when that dwelling is not part of a development of four or more dwellings, then the Director may waive the requirement for a geologic report under Section 18.45.090 if, based on the advice and recommendation of a qualified geologist employed or retained by the city, he or she determines that no

geologic hazard(s) exists. The Director shall set forth such determination in writing, citing the reasons for a waiver.

- C. The Director may also waive any or all requirements under Sections 18.45.110 and 18.45.120 for any project that is not a sensitive use if he or she determines, with consultation with a qualified geologist employed or retained by the City, that such requirement(s) are not necessary to make the finding or determination under Section 18.45.090.
- D. The Director may condition any waiver granted pursuant to this chapter with the following:
 - 1. The existing public storm drainage system has sufficient capacity, as determined by the ~~Director of Public Works~~City Engineer, to convey present and future storm water runoff.
 - 2. The construction has been designed in a manner which, at a minimum:
 - a. Prevents any additional storm water runoff or drainage on site; and
 - b. Provides for the drainage of any storm water runoff or drainage from the structure, driveway or other paved surfaces directly into the public storm drainage system.
 - 3. A grading plan in accordance with the grading ordinance has been approved by the Director, which provides, at a minimum:
 - a. Balanced grading, unless the applicant has demonstrated, to the satisfaction of the Director, that an imbalance would promote increased soil or slope stability;
 - b. Retaining walls which are not a part of the structure and which do not exceed four feet in height;
 - c. Soil cuts and fills, other than necessary for the foundation of the structure, which do not exceed five feet in depth, measured from the existing ground surface to the proposed ground surface;
 - d. A subdrainage system satisfactory to the Director; and
 - e. Erosion control measures deemed by the Director to be appropriate for all graded areas and the time of year in which the grading is anticipated to occur; and
 - f. The minimum amount of grading necessary to establish the reasonable use.

18.70.070 – Owner Obligations

- A. Prior to permit issuance, the owner shall submit to the City a plan review letter from a qualified geologist, which confirms that the plans conform with the recommendations presented in the approved geologic report.

- B.** Prior to or at the time of final inspection, the owner shall provide the Director a construction observation letter and certification, signed by a qualified geologist attesting that:
 - 1. All completed work and construction complies with the plans and specifications of the project, which have incorporated the mitigation measures in conformance with the geologic evaluation and the geologic clearance.
 - 2. Any additional geologic hazard not previously identified, which was encountered during construction, was immediately reported by the applicant or their agent to the Director.
- C.** The owner of any real property shall take reasonable actions as are necessary to prevent any natural or artificial geologic condition on such real property from threatening the safety of persons or other property.
- D.** Whenever the Director determines that any natural or artificial condition on a property may potentially endanger the safety of persons or other properties the Director may issue a notice of hazardous condition and require that reasonable actions be taken to mitigate the geologic hazard to an acceptable level within the time specified in the notice.
- E.** Failure to fully comply with any condition of the geologic clearance, violation of any provision of this chapter or maintenance of any property within any Seismic Hazard Zone in such a manner that a natural or artificial geologic condition on such real property which could be reasonably corrected or made less dangerous, is allowed to threaten the public health, safety or welfare, shall be deemed a violation of this chapter.

18.70.080 – Additional Regulations

In addition to the regulations set forth in this chapter, the ~~Community Development~~Development Services Department, with the consent of the City Council, may adopt such standards or regulations as are necessary to protect the public from geologic and seismic hazards. These standards or regulations may be more stringent than, but shall not be in conflict with, the provisions of any policies and criteria adopted by the State Mining and Geology Board pursuant to Section 2690 et seq. of the Public Resources Code of the State, except where more stringent standards or regulations have been adopted, the policies and criteria adopted from time to time by the State Mining and Geology Board shall apply within the City.

18.70.090 – Consistency with Other Regulations

Nothing in this chapter shall be construed to relieve any person of requirements imposed by other sections of this code or by state law, except that the provisions of this chapter shall take precedence over any less stringent provision of this code with which it is in conflict. Specifically, nothing in this chapter shall be construed to relieve any person of requirements imposed under the California Environmental Quality Act and Chapters 15.08, 15.54, or 18.74 of the Morgan Hill Municipal Code.

Chapter 18.72 – PARKING AND LOADING

Sections:

- 18.72.010 – Purpose
- 18.72.020 – Applicability
- 18.72.030 – Required Parking Spaces
- 18.72.040 – General Requirements
- 18.72.050 – On-Site Parking Alternatives
- 18.72.060 – Parking Design and Development Standards
- 18.72.070 – Parking Lot Landscaping
- 18.72.080 – Bicycle Parking
- 18.72.090 – On-Site Loading

18.72.010 – Purpose

This chapter establishes on-site parking and loading requirements in order to:

- A. Provide a sufficient number of on-site parking spaces for all land uses.
- B. Provide for functional on-site parking areas that are safe for vehicles and pedestrians.
- C. Ensure that parking areas are well-designed and contribute to a high-quality design environment in Morgan Hill.
- D. Allow for flexibility in on-site parking requirements to support a multi-modal transportation system and sustainable development pattern.
- E. Ensure that on-site parking areas do not adversely impact land uses on neighboring properties.

18.72.020 – Applicability

► *Note: Special parking rules for CC-R zone in existing section 18.50.025 have been removed. Parking requirements for changes of uses and expansions and enlargements are new.*

- A. **New Buildings and Uses.** On-site parking and loading as required by this chapter shall be provided anytime a new building is constructed or a land use is established where no land use previously existed.
- B. **Change of Use.** Where an existing use is changed to a new use, parking shall be provided for the incremental intensification of the new use. For example, if a new use requiring five on-site parking spaces replaces an existing use requiring four on-site parking spaces, the new use must provide one additional parking space regardless of the number of on-site parking spaces provided by the existing use.

- C. Expansions and Enlargements.** Where an existing structure is expanded or enlarged, additional parking is required to serve only the expanded or enlarged area. Additional parking is not required to remedy parking deficiencies existing prior to the expansion or enlargement.

18.72.030 – Required Parking Spaces

- *Note: This section makes the following changes to the existing Zoning Code: changes to existing parking requirements in Table 18.72-2 are shown in underline text; paragraphs 1 – 3 in Subsection D (Calculation of Required Spaces) are new; subsection F (Sites with Multiple Uses) is new.*

- A. MU-D and RAH Zoning Districts.** Land uses in the Downtown Mixed Use (MU-D) and Residential Attached High Density (RAH) zoning districts shall provide on-site parking as specified in Table 18.72-1. Required parking for uses not listed in Table 18.72-1 shall be the same as required for land uses in other zoning districts as shown in Table 18.72-2.

TABLE 18.72-1: REQUIRED ON-SITE PARKING, MU-D AND RAH ZONING DISTRICTS

Land Use	Number of Required Parking Spaces
Retail	2.8 per 1,000 sq. ft.
Office	4 per 1,000 sq. ft.
Residential	
Units 600 sq. ft. or less	1 per unit
Units 600 – 1,350 sq. ft.	1.5 per unit
Units greater than 1,350 sq. ft.	2 per unit

- B. Other Zoning Districts.** Land uses in zoning districts other the Downtown Mixed Use (MU-D) and Residential Attached High Density (RAH) zoning districts shall provide on-site parking as specified in Table 18.72-2.

TABLE 18.72-2: REQUIRED ON-SITE PARKING, OTHER ZONING DISTRICTS

Land Use	Number of Required Parking Spaces
Residential Uses	
Agricultural Labor Accommodations	<u>1 per 2 beds</u>
Caretaker Quarters	<u>1 per unit</u>
Duplexes and Duets	<u>2 covered per unit</u>
Group Housing	<u>1 per bedroom</u>
Live/Work Unit	<u>2 per unit</u>
Mixed Use Residential	<u>As required for each individual use, except that parking serving residential uses may be uncovered</u>

Multi-Family Dwellings	
Studio or One-Bedroom	1 covered and 0.5 uncovered per unit
Two Bedroom	1 covered and 1 uncovered per unit
Three Bedroom	1 covered and 1.5 uncovered per units
Nursing Homes and Long Term Care	<u>1 per two beds</u>
Recreational Vehicle (RV) Park	<u>1 per 250 sq. ft. of office floor area</u>
Residential Care Facilities, Large and Small	0.6 per bedroom
Accessory Dwelling Units	See Chapter 18.84 (Accessory Dwelling Units)
Senior Housing, Independent Living Multi-Family Dwellings	1 covered per unit
Senior Housing, Assisted Living Single-Family Dwellings	50% of units with 2 covered spaces, 50% with 1 covered space
Single-Family Dwellings, Attached and Detached	2 covered per unit
Public and Quasi-Public Uses	
Cemeteries	<u>1 per 4 seats in a chapel or other assembly area</u>
Colleges and Trade Schools	<u>1 per 40 sq. ft. of classroom area</u>
Community Assembly	1 per 5 fixed seats, or 1 per 35 sq. ft. of assembly space, whichever is more, plus 1 per 250 sq. ft. of office area
Cultural Institutions	<u>1 per 4 fixed seats, or 1 per 60 sq. ft. of assembly area for uses without fixed seats</u>
Day Care Centers	1 per 300 sq. ft. used for daycare
Emergency Shelters	<u>1 per 8 beds plus 1 per 300 sq. ft. of office or other non-residential floor area</u>
Government Offices	1 per 250 sq. ft.
Home Day Care, Large	<u>1 per 400 sq. ft. of floor area used for daycare and 1 per employee in addition to what is required for the residential use.</u>
Home Day Care, Small	<u>None in addition to what is required for the residential use.</u>
Hospitals	1 per each two beds
Instructional Services	1 per 2 employees plus 1 per 4 students <u>at maximum enrollment</u>
Medical Offices and Clinics	1 per 200 sq. ft., or 5 per doctor/dentist, whichever is greater
Parks and Recreational Facilities	<u>As determined by a parking demand study</u>
Public Safety Facilities	1 per 1,000 sq. ft. and 2 additional parking spaces for station vehicles
Schools, Public and Private	<u>Elementary and middle schools: 1 per classroom, plus 1 per 250 sq. ft. of office area.</u> <u>High schools: 7 per classroom.</u>
Social Services	1 per 200 sq. ft.
Commercial Uses	
Adult Businesses	<u>1 per 250 sq. ft.</u>
Animal-Related Commercial Uses	
Animal Boarding	<u>1 per employee plus an area for loading and unloading animals on site.</u>
Veterinarian Clinics and Hospitals	1 per 500 sq. ft.
Banks and Financial Institutions	1 per 250 sq. ft.
Business Support Services	1 per 250 sq. ft.

Cinemas and Theaters	1 per 3.5 seats or one per 32 square feet of seating area, whichever is greater
Commercial Parking	1 per employee
Commercial Recreation, Indoor	<u>Establishments with seating: 1 for each 4 fixed seats, or 1 for every 30 sq. ft. of seating area where temporary or moveable seats are provided.</u> <u>Athletic clubs: 1 per 150 sq. ft. of floor area.</u> <u>Bowling alleys: 2 per lane.</u> <u>Game courts (e.g., tennis): 2 per court.</u> <u>Swimming pools: 1 per 200 sq. ft. of pool area plus 1 per 500 sq. ft. of area related to the pool.</u> <u>Other commercial entertainment and recreation uses: as determined by the Director.</u>
Commercial Recreation, Outdoor	<u>As determined by a parking demand study</u>
Drive-Through Facilities	<u>As required by use served.</u>
Eating and Drinking Uses	
Bars and Nightclubs	1 per 100 sq. ft.
Restaurants, Fast Food	1 per 100 sq. ft. for establishments with more than 12 seats. 1 per 250 sq. ft. for establishments with 12 seats or less
Restaurants, Sit Down	1 per 100 sq. ft.
Tasting Rooms	<u>1 per 100 sq. ft. of tasting area</u>
Equestrian Centers	<u>As determined by a parking demand study</u>
Funeral Parlors and Mortuaries	1 per 4 permanently located seats or 1 per 45 sq. ft. of assembly space
Lodging Facilities	
Bed and Breakfast Lodging	<u>1 per guest room plus 1 for each 10 rooms</u>
Hotels and Motels	1 per guest room plus 1 for each 10 rooms
Mini-Storage	2 spaces or 1 per 250 storage units, whichever is greater, plus 1 additional covered and 1 additional uncovered for an on-site manager residence
Personal Services	1 per 250 sq. ft.
Plant Nurseries	1 per 1,000 sq. ft. of site area for the first 10,000 sq. ft., then 1 per each additional 5,000 sq. ft., plus 1 per each 250 sq. ft. of floor area. Min. 7 spaces plus 1 space per vehicle to be parked on the site overnight
Professional Offices	1 per 250 sq. ft.
Retail	
Convenience Markets	<u>1 per 250 sq. ft.</u>
Farmers Market	<u>As determined by a parking demand study</u>
General Retail	<u>1 per 250 sq. ft.</u>
Home Improvement Centers	<u>1 per 250 sq. ft.</u>
Large Commodity Retail	1 per 350 sq. ft.
Open-Air Sales	1 per 1,000 sq. ft. of site area
Vehicle-Related Uses	
Gas and Service Stations	1 per 200 sq. ft.
Towing and Impound	<u>1 per 250 sq. ft. of office space in addition to space for storage of towing vehicles</u>
Vehicle Rentals	<u>1 per 250 sq. ft. of office space in addition to space for storage of rental vehicles</u>
Vehicle Repair and Maintenance, Major and Minor	1 per 200 sq. ft.

Vehicle Sales and Leasing	5 per for the first 10,000 sq. ft. of lot area and 1 for each additional 3,000 sq. ft.
Vehicle Washing	5 per for the first 10,000 sq. ft. of lot area and 1 for each additional 3,000 sq. ft.
Wholesaling	1 per 1,000 sq. ft. of floor area plus 1 per 300 sq. ft. of office area
Industrial Uses	
Construction and Material Yards	1 per 2,500 sq. ft.
Food and Beverage Production, Light and Heavy	1 per 500 sq. ft.
Warehousing and Distribution	1 per 1,000 sq. ft. plus 1 per 300 sq. ft. of office area
Manufacturing, Light and General	1 per 500 sq. ft.
Research and Development	1 per 350 sq. ft.
Salvage and Wrecking	1 per 500 sq. ft.
Warehousing and Distribution, Large	1 per 1,000 sq. ft. plus 1 per 300 sq. ft. of office area
Warehousing and Distribution, Small	As determined parking demand study, but no less than 1 per 1,000 sq. ft. of gross floor area
Warehousing and Distribution, Outdoor Storage	1 per 1,000 sq. ft. plus 1 per 300 sq. ft. of office area
Transportation, Communication, and Utility Uses	
Freight/Truck Terminals and Warehouses	1 per 1,000 sq. ft. plus 1 per 300 sq. ft. of office area
Parking Lot and Structures	1 per 300 sq. of office area
Recycling Facilities	
Reverse Vending Machine	1 per machine
Recycling Collection Facility	1 per 1,000 sq. ft.
Recycling Processing Facility	1 per 1,000 sq. ft.
Transportation Terminals	As determined by parking demand study
Utilities, Major	1 for each employee on the largest shift plus 1 for each vehicle used in connection with the use. Minimum of 2.

C. Guest Parking.

1. **Number of Guest Spaces.** All residential land uses shall provide the minimum number of guest parking spaces as specified in Table 18.72-3.

TABLE 18.72-3: REQUIRED GUEST PARKING SPACES

Land Use	Number of Guest Spaces
Single-Family Dwellings	1 per 4 units
Multi-Family Dwellings	1 per 3 units
Multi-Family Dwellings for Senior Citizens	1 per 5 units

2. **Location of Guest Spaces.** Guest spaces shall be located no more than 150 feet from the residential dwellings they serve.

3. **Downtown Exemption.** Guest parking is not required for proposed residential development within the Downtown Specific Plan overlay zone.

D. Calculation of Required Spaces.

1. **Floor Area.** Where a parking requirement is a ratio of parking spaces to floor area, the floor area is assumed to be gross floor area, unless otherwise stated. The floor area of a use shall be calculated as described in Section 18.12.050 (Floor Area and Floor Area Ratio).
2. **Employees.** Where a parking requirement is stated as a ratio of parking spaces to employees, the number of employees is based on the largest shift that occurs in a typical week.
3. **Seats.** Where a parking requirement is stated as a ratio of parking spaces to seats, each 24 inches of bench-type seating at maximum seating capacity is counted as one seat.
4. **Fractional Spaces.** In determining the number of required parking, fractions of spaces over one-half shall be rounded up to the next whole number.

E. Unlisted Uses.

1. Commercial uses not listed: 1 space for each 250 square feet of gross floor area.
2. The parking requirement for land uses not listed in Table 18.72-1 and Table 18.72-2 shall be determined by the Community Development Director based on the requirement for the most comparable similar use, the particular characteristics of the proposed use, and any other relevant data regarding parking demand.

- F. **Sites with Multiple Uses.** Where more than one land use is conducted on a site, the minimum number of required on-site parking spaces shall be the sum of the number of parking spaces required for each individual use.

18.72.040 – General Requirements

-
- *Note: This section makes the following changes to the existing Zoning Code: deletes existing 18.50.120 (Disabled Persons and Veterans Spaces—Removal of Unauthorized Vehicles); paragraph 2 of Subsection A (Availability and Use of Spaces) is new; subsection D (Electric Vehicle Charging) is new; deletes existing Section 18.50.380 (Guest Parking).*
-

A. Availability and Use of Spaces.

1. ~~In all zoning districts, the~~ Required parking spaces for multi-family and non-residential uses shall be permanently available and maintained to provide parking for the use they are intended to serve.
2. Owners, lessees, tenants, or persons having control of the operation of a use for which parking spaces are required shall not prevent or restrict authorized persons from using these spaces.

3. Required parking spaces shall be used exclusively for the temporary parking of vehicles and shall not be used for the sale, lease, display, repair, advertising, or storage of vehicles, trailers, boats, campers, mobile homes, merchandise, or equipment, or for any other use not authorized by the Zoning Code.

B. Location of Parking.

1. **Residential Uses.** Required minimum on-site parking to serve all residential uses shall be located on the same parcel or site as the use which it serves.
2. **Non-Residential Uses.** Required minimum on-site parking to serve all non-residential residential uses shall be located on the same parcel or site as the use which it serves except as allowed by Section 18.72.050.D (Off-Site Parking).

C. Electric Vehicle Charging.

1. **When Required.** Electric vehicle charging stations shall be provided:
 - a. For new structures or uses required to provide at least 25 parking spaces; and
 - b. Additions or remodels that increase an existing parking lot of 50 for more spaces by 10 percent or more.
2. **Number of Charging Stations.** The number of required charging stations shall be as follows:
 - a. 25-49 parking spaces: 1 charging station.
 - b. 50-100 parking spaces: 2 charging stations, plus one for each additional 50 parking spaces.
3. **Location and Signage.** Charging stations shall be installed adjacent to standard size parking spaces. Signage shall be installed designating spaces with charging stations for electric vehicles only.

D. Garage and Carport Setbacks. Garages and carports in the Detached Residential Zoning Districts shall comply with setback requirements in Section 18.20.030.E (Garage and Carport Setbacks).

E. Parking for Persons with Disabilities.

1. Parking spaces for persons with disabilities shall be provided in compliance with California Code of Regulations Title 24.
2. Parking spaces required for the disabled shall count toward compliance with the number of parking spaces required by Table 18.72-1 and Table 18.72-2.

F. Camper, Boat, and Trailer Parking. Camper, boat, and trailer parking spaces shall be located and screened so as not to be visible from the public street.

18.72.050 – On-Site Parking Alternatives

► *Note: This section is new except for Subsection E (Consolidated Parking). Subsection C (In-Lieu Payments) replaces existing Section 18.50.130.*

A. Purpose. This section identifies alternatives to required on-site parking to:

1. Allow for creative parking solutions;
2. Enhance economic vitality in Morgan Hill;
3. Promote walking, biking, and use of transit; and
4. Encourage the efficient use of land resources consistent with the General Plan.

B. Required Approval. Unless otherwise indicated, all reductions in on-site parking described in this section require Planning Commission approval of a Conditional Use Permit.

C. In-Lieu Payments. Within the MU-D and MU-N zoning districts, on-site parking requirements may be satisfied by payment of an in-lieu parking fee consistent with the City's Downtown in-lieu fee parking program.

D. Off-Site Parking.

1. For multi-family housing and non-residential uses, the Planning Commission may allow off-site parking if the Commission finds that practical difficulties prevent the parking from being located on the same lot it is intended to serve.
2. On-site parking shall be located within a reasonable distance of the use it is intended to serve, as determined by the Planning Commission.
3. A covenant record, approved by the City Attorney, shall be filed with the County Recorder. The covenant record shall require the owner of the property where the on-site parking is located to continue to maintain the parking space so long as the building, structure, or improvement is maintained in Morgan Hill. This covenant shall stipulate that the title and right to use the parcels shall not be subject to multiple covenant or contract for use without prior written consent of the City.

E. Consolidated Parking.

1. The required on-site parking for multiple uses may be consolidated into one central parking area located within the same block or within 300 feet of any individual use.
2. The number of parking spaces required shall be the sum total of the required parking for each individual use unless the City approves a shared parking reduction in accordance with Section 18.72.050.F (Shared Parking).

F. Shared Parking. Multiple land uses on a single parcel or development site may use shared parking facilities when operations for the land uses are not normally conducted during the same hours, or when hours of peak use differ. The Planning Commission may allow shared parking if:

1. The parking will be shared by non-residential land uses only;
2. A parking demand study approved by the Community Development Director demonstrates that there will be no substantial conflicts between the land uses' principal hours of operation and periods of peak parking demand;
3. The total number of parking spaces required for the land uses does not exceed the number of parking spaces anticipated at periods of maximum use; and
4. The proposed shared parking facility is located no further than 400 feet from the primary entrance of the land use which it serves.

G. Valet Parking. The Planning Commission may allow up to 25 percent of the required on-site parking spaces to be valet spaces. Valet parking shall comply with the following standards:

1. Valet parking lots must be staffed at all times by an attendant who is authorized and able to move vehicles.
2. A valet parking plan shall be reviewed and approved by the Community Development Director in consultation with the City Engineer.
3. Valet parking may not interfere with or obstruct vehicle or pedestrian circulation on the site or on any public street or sidewalk.
4. The use served by valet parking shall provide a designated drop-off and pick-up area. The drop-off and pick-up area may be located adjacent to the building, but it may not be located within a fire lane, impede vehicular and/or pedestrian circulation, or cause queuing in the right-of-way or drive aisle.

H. Low Demand. The number of required on-site parking spaces may be reduced if the Planning Commission finds that the land use will not utilize the required number of spaces due to the nature of the specific use. This finding shall be supported by the results of a parking demand study approved by the Community Development Director in consultation with the City Engineer.

I. Transportation Demand Management Plan. The Planning Commission may reduce the number of required on-site parking spaces for employers that adopt and implement a Transportation Demand Management (TDM) Plan subject to the following requirements and limitations:

1. A TDM Plan reduction is available only to employers with 25 or more employees.
2. Required on-site parking spaces may be reduced by no more than 15 percent.
3. The TDM Plan shall be approved by the Community Development Director in consultation with the City Engineer.
4. The TDM Plan shall identify specific measures that will measurably reduce the demand for on-site parking spaces.

5. The employer shall appoint a program coordinator to oversee transportation demand management activities.
6. The program coordinator must provide a report annually to the Planning Commission that details the implementation strategies and effectiveness of the TDM Plan.
7. The Planning Commission may revoke the TDM Plan at any time and require additional parking spaces on site upon finding that that the Plan has not been implemented as required or that the Plan has not produced the reduction the demand for on-site parking spaces as originally intended.

~~**J. Transit Credit.** The Planning Commission may reduce the number of required parking spaces by up to 10 percent for non-residential or multiple-family development projects within 1,000 feet of the Caltrain Station or the Morgan Hill Transit Center.~~

18.72.060 – Parking Design and Development Standards

► *Note: This section contains the following changes to the existing Zoning Code: subsection C (Surfacing) replaces existing Sections 18.50.300, 310, 320, 330; subsection D (Tandem) allows tandem parking for all residential uses, no longer allowed only in a garage with new standards 1 – 4; subsection E (Forward Entrance and Exit) replaces existing Section 18.50.210; subsection F (Parking Lifts) is new; subsection G (Lighting) is new; subsection I (Screening) is new; subsection K (Adjustments) is new; deletes existing Section 18.50.220 (Location, Access and Signing)*

A. Conformance with City Standards. All parking spaces, lots, driveways and other improvements intended and used for vehicle parking and circulation shall comply with the Design Standards and Standard Details for Construction as maintained by the City of Morgan Hill Engineering Division.

B. Parking Space and Lot Dimensions.

1. **General.** The dimensions of parking spaces, maneuvering aisles, and access ways within a parking lot shall conform to the City's official parking space standard specifications maintained by the Engineering Division and as shown in Figure 18.72-1. All required parking spaces shall be full size parking spaces. Alternatively, with the issuance of a Design Permit, up to thirty percent of the required parking spaces may be compact spaces.
2. **Garage Spaces.** All parking spaces within a structure shall be a minimum of 10 feet in width and 20 feet in length.
3. **Access to Spaces.** All access to spaces in a parking lot shall be from the lot.
4. **Driveway Width.** The minimum required driveway width at the street entrance shall be as shown in Table 18.72-4.

FIGURE 18.72-1: PARKING LOT DIMENSIONS

FULL SIZE			
A Angle	B Depth	C Aisle	D Width [1]
0°	22 ft.	12 ft.	8 ft.
45°	18.7 ft.	15 ft.	9 ft.
60°	19.8 ft.	16 ft.	9 ft.
90°	18 ft.	25 ft.	9 ft.

COMPACT			
A Angle	B Depth	C Aisle	D Width [1]
0°	22 ft.	12 ft.	8 ft.
45°	16.6 ft.	15 ft.	8 ft.
60°	17.6 ft.	16 ft.	9 ft.
90°	16 ft.	25 ft.	9 ft.

A = Angle parking spaces makes with wall, curb, or fences

B = Minimum distance measured at right angles from wall, curb, or fence to nearest edge of aisle, except zero-degree parking where B equals the length of the stall parallel to the curb, aisle, or street

C = Minimum width of one-way aisle

D = Minimum width of the parking space measured at right angles from the side boundaries of the space

Notes:

[1] Minimum 10 ft. width for spaces with one or two sides adjacent to a landscaped area.

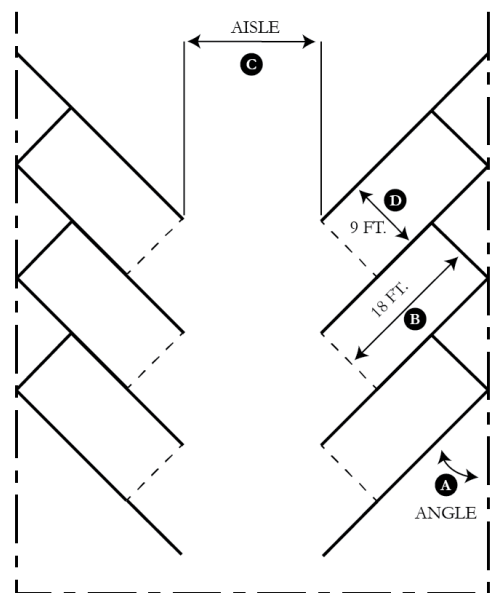
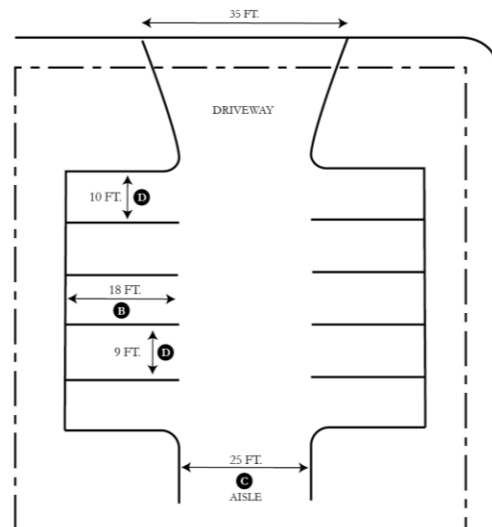


TABLE 18.72-4: MINIMUM DRIVEWAY WIDTHS

Land Use Served by Driveway	Minimum Width at Street Entrance
Commercial Uses	
One-Way Driveway	25 ft.
Two-Way driveway	35 ft.
Residential Uses	
One-way Driveways	12 ft. at street entrance
Two-way Driveways	18 ft. at street entrance

5. **Circulation Drive Aisle Width.** Main circulation drive aisles within a shopping center or other commercial development shall be a minimum of 30 feet in width.
6. **Stacking Area.** All parking lots shall provide a minimum 40-foot stacking from the travel lane of the adjoining street.

C. Surfacing.

1. All parking spaces, maneuvering aisles, and access ways shall be paved with asphalt, concrete, or other all-weather surface.
2. Permeable paving materials, such as porous concrete/asphalt, open-jointed pavers, and turf grids, are a permitted surface material, subject to approval by the Development Services Department.

D. Tandem Parking Spaces. Tandem parking spaces are permitted for all residential land uses, provided that they comply with the following standards:

1. Parking spaces in a tandem configuration shall be reserved for and assigned to a single dwelling unit. All required guest parking shall be provided as single, non-tandem parking spaces.
2. Tandem parking spaces shall not block the use of the driveway to access other parking spaces located within the parking area.
3. Tandem parking spaces shall be used to accommodate passenger vehicles only.

E. Forward Entrance and Exit. For parking areas adjacent to an arterial or collector roadway, sufficient maneuvering area shall be provided so that vehicles may enter and exit an abutting street in a forward direction.

F. Parking Lifts. Required parking may be provided using elevator-like mechanical parking systems (“lifts”) provided the lifts are located within an enclosed structure or otherwise screened from public view.

G. Lighting.

1. A parking area with six or more parking spaces shall include outdoor lighting that provides a minimum illumination of 1.0 foot-candles over the entire parking area.

2. Outdoor lighting as required above shall be provided during nighttime business hours.
3. All parking space area lighting shall be energy efficient and designed so that any glare or spillage is directed away from residential properties.
4. All fixtures shall be hooded and downward facing.
5. Parking structures shall provide indoor lighting as required by the California Building Code.

H. Pedestrian Access.

1. Parking lots with more than 30 parking spaces shall include a pedestrian walkway in compliance with ADA requirements.
2. The design of the pedestrian walkway shall be clearly visible and distinguished from parking and circulation areas through striping, contrasting paving material, or other similar method as approved by the Community Development Director.

I. Screening. Parking lots of six spaces or more shall comply with the following screening standards.

1. **Location.** Screening shall be provided along the perimeter of parking lots fronting a street or abutting a residential zoning district.
2. **Height.**
 - a. Screening adjacent to streets shall have a minimum height of 3 feet.
 - b. For parking lots within 10 feet of a residential zoning district, screening shall have a minimum height of 6 feet.
3. **Materials.** Required screening may consist of one or more of the following materials:
 - a. Low-profile walls constructed of brick, stone, stucco or other durable and graffiti-proof coating material.
 - b. Evergreen plants that form an opaque screen.
 - c. An open fence combined with landscaping to form an opaque screen.
 - d. A berm landscaped with ground cover, shrubs, or trees.
 - e. Parking lots within 10 feet of a residential zoning district shall be screened by a 6 foot masonry wall.

J. Driveway Spacing.

1. Driveways shall be setback from street intersections as shown in Table 18.72-5:

TABLE 18.72-5: DRIVEWAY SETBACKS FROM INTERSECTIONS

Use Served by Driveway	Minimum Distance from Intersection
Residential	10 ft.
Commercial	25 ft.
Industrial	30 ft.
Other Uses	As required by the City Engineer

2. Setbacks shall be measured from corner radius or 30 feet, whichever is greater. The corner radius shall be the arc length measured between the linear distance of the adjoining street.

K. Adjustments to Parking Design and Development Standards. The Planning Commission may allow adjustments to parking design and development standards in this section through the approval of a Minor Exception as described in Chapter 18.108.070 (Minor Exceptions).

18.72.070 – Parking Lot Landscaping

► *Note: This section is new except for Paragraph 2 of Subsection E (Concrete Curbs).*

- A. General Standards.** All landscaping within parking lots shall comply with the requirements of Chapter 18.72 (Landscaping) in addition to the standards within this section.
- B. Landscaping Defined.** Except as otherwise specified in this section, landscaping and landscaped areas shall consist of plant materials, including any combination of trees, shrubs, and ground cover.
- C. Interior Landscaping.** All areas within a parking lot not utilized for parking spaces or access/circulation shall be landscaped. For parking lots with more than 15 spaces, the minimum amount of interior landscaping is specified in Table 18.72-6. Interior landscaping is defined as any landscaped area surrounded on at least two sides by parking spaces or drive aisles, and excluding areas around the perimeter of the parcel or development site.

TABLE 18.72-6: MINIMUM REQUIRED PARKING LOT LANDSCAPING

Number of Required Parking Spaces	Percent of Surface Parking Area to be Landscaped
16 to 30	10%
31 to 60	15%
Over 60	20%

D. Shade Trees.

1. One shade tree shall be provided for every five parking spaces in a parking lot.
2. Shade trees shall be a minimum 24-inch box in size and shall provide a minimum 30-foot canopy at maturity.
3. Shade trees shall be of a type that can reach maturity within 15 years of planting and shall be selected from a City-recommended list of canopy tree species.
4. Shade trees shall be arranged in a parking lot to provide maximum shade coverage (based on a 30-foot canopy) on August 21. The arrangement should approximate nearly 50 percent shade coverage.

E. Concrete Curbs.

1. All landscape areas shall be separated from parking spaces, drive aisles and driveways by a continuous, raised concrete curb. Raised concrete curbs shall be a minimum of 6 inches high by 4 inches deep.
2. The City may approve alternatives to raised concrete curbs as needed to comply with any mandatory stormwater drainage standards.

F. Parking Space Landscaping. A maximum of 2 feet at the front end of a parking space may be landscaped with low shrubs or ground cover in which a vehicle could extend over in lieu of paving surface. This landscaping may not count toward minimum required parking lot landscaped area.

G. Timing. Landscaping shall be installed prior to the City's authorization to occupy any buildings served by the parking area, or prior to the final inspection for the parking lot.

H. Green Parking Exemptions. Parking lots that incorporate solar panels, bioswales, and other similar green features not otherwise required by post construction stormwater requirements are eligible for reduced parking lot landscaping requirements with the approval of a Conditional Use Permit.

18.72.080 – Bicycle Parking

► *Note: This section is new.*

A. Applicability. All multi-family developments of 5 units or more and commercial and commercial parking lots of 10 spaces or more shall provide bicycle parking as specified in this section.

B. Types of Bicycle Parking.

1. **Short-Term/Class II Bicycle Parking.** Short-term/Class II bicycle parking provides shoppers, customers, messengers and other visitors who generally park for two hours or less a convenient and readily accessible place to park bicycles.

2. **Long-Term/Class I Parking.** Long-term/Class I bicycle parking provides employees, residents, visitors and others who generally stay at a site for several hours a secure and weather-protected place to park bicycles. Long-term parking may be located in garages or other limited access areas for exclusive use by tenants or residents.

C. Bicycle Parking Spaces Required. Short-term and long-term bicycle parking spaces shall be provided as specified in Table 18.72-7.

TABLE 18.72-7: REQUIRED BICYCLE PARKING SPACES

Land Use	Required Bicycle Parking Spaces	
	Short-Term Spaces	Long-Term Spaces
Multi-Family Dwellings and Group Housing	10% of required automobile spaces; minimum of 4 spaces	1 per 5 units
Non-Residential Uses	10% of required automobile spaces	1 per 20 required automobile spaces for uses 10,000 sq. ft. or greater

D. Short-Term/Class II Bicycle Parking Standards. Short-term bicycle parking shall be located within 100 feet of the primary entrance of the structure or use it is intended to serve.

E. Long-Term Bicycle Parking Standards. The following standards apply to long-term bicycle parking:

1. **Location.** Long-term bicycle parking shall be located on or within 750 feet of the use that it is intended to serve.
2. **Security.** Long-term bicycle parking spaces shall be secured. Spaces are considered secured if they are:
 - a. In a locked room or area enclosed by a fence with a locked gate;
 - b. Within view or within 100 feet of an attendant or security guard;
 - c. In an area that is monitored by a security camera; or
 - d. Visible from employee work areas.

F. Parking Space Dimensions.

1. Minimum dimensions of 2 feet by 6 feet shall be provided for each bicycle parking space.
2. An aisle of at least 5 feet shall be provided behind all bicycle parking to allow room for maneuvering.
3. 2 feet of clearance shall be provided between bicycle parking spaces and adjacent walls, polls, landscaping, pedestrian paths, and other similar features.

4. 4 feet of clearance shall be provided between bicycle parking spaces and adjacent automobile parking spaces and drive aisles.

G. Rack Design. Bicycle racks must be capable of locking both the wheels and the frame of the bicycle and of supporting bicycles in an upright position.

H. Cover. Required cover for bicycle parking spaces shall be permanent, designed to protect the bicycle from rainfall, and at least 7 feet above the floor or ground.

18.72.090 – On-Site Loading

► *Note: Paragraph 2 of Subsection D (Location) and Subsection F (Design and Configuration) are new.*

A. Applicability. All retail, hotel, warehousing, manufacturing, and similar uses that involve the frequent receipt or delivery of materials or merchandise shall provide on-site loading spaces consistent with the requirements of this section.

B. Number of Loading Spaces. The minimum number of required loading spaces shall be as specified in Table 18.72-8.

TABLE 18.72-8: REQUIRED LOADING SPACES

Floor Area	Required Loading Spaces
Less than 15,000 sq. ft.	None
15,000 to 25,000 sq. ft.	1
25,000 to 100,000 sq. ft.	2
100,000 to 200,000 sq. ft.	3
200,000 to 300,000 sq. ft.	4
Greater than 300,000 sq. ft.	4 plus 1 per each additional 100,000 sq. ft.

C. Location.

1. Required loading spaces shall be located on the same lot as the use they are intended to serve.
2. No loading space shall be located closer than 50 feet to a residential zoning district, unless the loading space is wholly enclosed within a building or screened by a solid wall not less than 8 feet in height.

D. Dimensions.

1. Each loading space shall have minimum dimensions of 12 feet wide, 40 feet long, and 14 feet in vertical clearance.

2. Deviations from the minimum dimensions standards may be approved by the Community Development Director if the spatial needs are less than the minimum required due to the truck size and type that will be utilized in the operation of a specific business.

E. Design and Configuration.

1. Loading spaces shall be configured to ensure that loading and unloading takes place on-site and not within adjacent public rights-of way.
2. Sufficient maneuvering area shall be provided for loading spaces so that vehicles may enter and exit an abutting street in a forward direction.
3. Loading spaces and their associated maneuvering areas shall not encroach into required employee or visitor parking areas or other on-site areas required for vehicle circulation.
4. Loading spaces shall be striped and clearly identified as for loading purposes only.

Chapter 18.76 – PERFORMANCE STANDARDS

Sections:

- 18.76.010 – Purpose
- 18.76.020 – Applicability
- 18.76.030 – General Prohibitions
- 18.76.040 – Air Contaminants
- 18.76.050 – Fire and Explosive Hazards
- 18.76.060 – Glare
- 18.76.070 – Hazardous Materials
- 18.76.080 – Liquid and Solid Wastes
- 18.76.090 – Noise
- 18.76.100 – Odors
- 18.76.110 – Radioactivity
- 18.76.120 – Electromagnetic Interference
- 18.76.130 – Vibration

18.76.010 – Purpose

This chapter establishes performance standards for uses and activities to protect the community from nuisances, hazards, and objectionable conditions; promote compatibility of different land uses; and to protect environmental resources.

18.76.020 – Applicability

This chapter applies to all new and existing land uses, including permanent and temporary uses, in all districts unless an exemption is specifically provided.

18.76.030 – General Prohibitions

► *Note: This section replaces existing Section 18.48.005 (Specific Conditions and Substances Prohibited).*

Land or buildings shall not be used or occupied in a manner creating any dangerous, injurious, or noxious fire, explosive or other hazard that would adversely affect the surrounding area.

18.76.040 – Air Contaminants

► *Note: Subsection C is new.*

- A. No uses or activity may operate in a manner that emits excessive dust, fumes, smoke, or particulate matter, excluding standards set under state and federal law.
- B. Sources of air pollution shall comply with all rules established by the Environmental Protection Agency (Code of Federal Regulations, Title 40), the California Air Resources Board, and the Bay Area Air Quality Management District (BAAQMD).
- C. Operators of activities, processes, or uses that require approval to operate from the BAAQMD shall file a copy of the permit with the ~~Community Development~~Development Services Department within 30 days of permit approval.

18.76.050 – Fire and Explosive Hazards

- A. All uses and activities involving storage of flammable or explosive materials shall provide adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire-suppression equipment.
- B. Fire-fighting and fire-suppression equipment and devices standard in industry shall be approved by the Fire Department.
- C. Burning of waste materials in open fires is prohibited.

18.76.060 – Glare

No use or activity may produce direct or sky-reflected glare that is visible at a distance of 500 feet from the use or activity, except for signs as allowed by Chapter 18.88 (Signs).

18.76.070 – Hazardous Materials

► *Note: Subsection A replaces existing Section 18.48.050 (Hazardous Wastes).*

- A. The use, handling, storage and transportation of hazardous materials shall comply with the California Hazardous Materials Regulations and the California Fire and Building Codes, as well as the laws and regulations of the California Department of Toxic Substances Control and the County Environmental Health Agency.
- B. Any use that handles, stores, or transports hazardous materials requires a Conditional Use Permit.

18.76.080 – Liquid and Solid Wastes

► *Note: This section replaces existing Section 18.48.060 (Liquid or Solid Wastes).*

- A. Liquids and solids of any kind may not be discharged, either directly or indirectly, into a public or private body of water, sewage system, watercourse, or into the ground, except in compliance with applicable regulations of the California Regional Water Quality Control Board (California Administrative Code, Title 23, Chapter 3 and California Water Code, Division 7).

- B.** Solid wastes shall be handled and stored so as to prevent nuisances, health, safety and fire hazards, and to facilitate recycling. There shall be no accumulation outdoors of solid wastes conducive to the breeding of rodents or insects, unless stored in closed containers.

18.76.090 – Noise

- A.** No land use or activity may produce a noise level in excess of the standards in Table 18.76-1.

Table 18.76-1: Maximum Noise Levels

Receiving Land Use	Maximum Noise Level at Lot Line of Receiving Use [1]
Industrial and Wholesale	70 dbA
Commercial	65 dbA
Residential or Public/Quasi Public	60 dbA

Notes:

[1] The Planning Commission may allow an additional 5 dbA noise level at the lot line if the maximum noise level shown in Table 18.76-1 cannot be achieved with reasonable and feasible mitigation.

- B.** Noise standards in Table 18.76-1 do not apply to noise generated by vehicle traffic in the public right-of-way or from temporary construction, demolition, and vehicles that enter and leave the site of the noise-generating use (e.g., construction equipment, trains, trucks).
- C.** All uses and activities shall comply with Municipal Code Chapter 8.28 (Noise).

18.76.100 – Odors

► *Note: Subsection B replaces existing Section 18.48.080 (Odors).*

- A.** No use or activity shall produce objectionable odors that are perceptible without instruments by a reasonable person at the lot line of a site.
- B.** Odors from temporary construction, demolition, and vehicles that enter and leave the site (e.g., construction equipment, trains, trucks, etc.) are exempt from this standard.

18.76.110 – Radioactivity

► *Note: This section replaces existing Section 18.48.090 (Radioactive or Electrical Disturbances).*

No radiation of any kind shall be emitted that is dangerous to humans.

18.76.120 – Electromagnetic Interference

► *Note: This section replaces existing Section 18.48.090 (Radioactive or Electrical Disturbances).*

- A. No use or activities may cause electromagnetic interference with normal radio and television reception in a residential district, or with the function of other electronic equipment beyond the lot line of the site in which it is situated.
- B. All uses and activities shall comply with applicable Federal Communications Commission regulations.

18.76.130 – Vibration

► *Note: The second sentence in this section is new.*

Vibration transmitted through the ground that is discernible without instruments at the lot line of the establishment or use is prohibited. Vibrations from temporary construction, demolition, and vehicles that enter and leave the lot (e.g., construction equipment, trains, trucks, etc.) are exempt from this standard.

Chapter 18.80 – RECREATIONAL VEHICLE PARKS

Sections:

- 18.80.010 – Purpose
- 18.80.020 – Definitions
- 18.80.030 – Compliance with State Law
- 18.80.040 – Permits Required
- 18.80.050 – Occupancy Requirements
- 18.80.060 – Development Standards

18.80.010 – Purpose

This chapter establishes standards for the development and operation of recreational vehicle (RV) parks. These standards are intended to:

- A. Ensure that RV parks are compatible with surrounding land uses;
- B. Provide a suitable environment for travelers and other occupants of RV parks;
- C. Protect RV parks as a recreational amenity serving temporary visitors; and
- D. Ensure RV parks conform to applicable state laws and regulations.

18.80.020 – Definitions

► *Note: Definitions for recreational vehicle and recreational vehicle space are new. Definition for recreational vehicle park modifies existing Section 18.04.382 (Recreational Vehicle Park).*

Specialized terms used in this chapter are defined as follows:

- A. **Recreational Vehicle (RV).** A vehicular-type unit designed for temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The term “recreational vehicle” includes, but is not limited to:
 - 1. Motor homes constructed as an integral part of a self-propelled vehicle.
 - 2. Travel trailers built on a chassis and drawn by a motorized vehicle.
 - 3. Campers mounted on a truck chassis.
 - 4. Camping trailers and similar folding structures mounted on wheels.
 - 5. Park trailers built on a single chassis, mounted on wheels, with a gross trailer area not exceeding 400 square feet in the setup mode, and certified by the manufacturer as complying with ANSI A119.5.

- B. Recreational Vehicle (RV) Park.** An establishment designed, established, or used for exclusive occupancy by two or more recreational vehicles. RV parks are owned by a single owner or organizations where RV spaces are temporarily rented or leased to a person occupying an RV.
- C. Recreational Vehicle (RV) Space.** A designated and defined area of land within an RV park intended for temporary location of an RV as a dwelling unit.
- D. Recreational Vehicle (RV) Space, Short Term.** An RV space designated for stays of 30 days or less in one continuous stay, and no more than 90 days in any consecutive 365-day period.
- E. Recreational Vehicle (RV) Space, Transitional.** An RV space designated for stays of 31 to 244 days in any consecutive 365-day period. Transitional RV spaces are intended for persons moving to the Morgan Hill who may be in transition to permanent housing and require a temporary address in prior to obtaining permanent housing.

18.80.030 – Compliance with State Law

► *Note: This section is new, replacing references to specific sections of the California Administrative Code in existing Chapter 18.49 (Recreational Vehicle Parks).*

- A.** All RV parks shall conform to Title 25, Chapter 5 of the State of California Administrative Code, Division 13 of the California Health and Safety Code, and all other state laws and regulations that apply to RV parks.
- B.** In the event of conflict between any this chapter and any controlling state law or regulation, the state law or regulation shall apply. If the state law or regulation is not controlling, then the more restrictive provision shall apply.

18.80.040 – Permits Required

► *Note: Language in existing Section 18.49.030 (Conditional Use Permit) suggesting the City may allow permanent occupancy of RV spaces has been removed.*

- A. Conditional Use Permit.**
 - 1. When located in a district that identifies RV parks as a permitted use, the establishment and operation of an RV park requires a Conditional Use Permit.
 - 2. The Conditional Use Permit for an RV park shall specify the number and proportion of short term and transitional spaces permitted in the RV park.
- B. Design Permit.** Establishment of an RV park requires Planning Commission approval of a Design Permit.

18.80.050 – Occupancy Requirements

- *Note: Language in existing Section 18.49.040 (Space occupancy) suggesting the City may allow permanent occupancy of RV spaces has been removed.*
-

A. Length of Occupancy.

1. The maximum length of occupancy in an RV park is as follows:
 - a. Short Term RV Spaces: No more than 30 days in one continuous stay, and no more than 90 days in any consecutive 365-day period.
 - b. Transitional RV Spaces: No more than 244 days in any consecutive 365-day period.
2. Occupancy in an RV park for more than 244 days is prohibited.
3. Occupancy for longer than 30 days of any RV space designated by the Conditional Use Permit as a short term RV space requires an amendment to the Conditional Use Permit.

B. Permitted Vehicles.

Occupancy of an RV space is limited to one RV and one additional motor vehicle. Permanent buildings are prohibited within RV spaces.

C. Tag of Certification.

An RV which stays for more than 30 continuous days in a RV park shall have a tag of certification documenting compliance with state and federal RV manufacturing requirements. A tag of certification may be issued by:

1. The California Department of Housing and Community Development under Section 4032, Title 25, Division 1, Chapter 3 of the California Code of Regulations ("state insignia") or other state or Canadian province; or
2. The Recreational Vehicle Industry Association (RVIA) or a third-party certification company recognized by the City as being substantially equivalent.

D. Registration Required.

1. RV parks shall maintain a register listing the name, home address, vehicle identification number, and length of each of each park occupant. Erasures or alterations on the register is prohibited and unlawful.
2. Each register page shall include a statement that the register is open to City inspection at all times. Registers shall be kept in a conspicuous place and shall be made available for City inspection upon request.

E. City Verification.

The City has the authority to allow a designated City staff member to visit an RV park, record vehicle identification numbers, vehicle license numbers and vehicle model types in spaces.

18.80.060 – Development Standards

► *Note: Existing Section 18.49.180 (Fees) has been removed.*

All RV parks shall comply with the following development standards:

A. Park Size and Dimensions.

1. Minimum RV park area: 5 acres total and 2,000 square feet per RV space.
2. Maximum RV park area: 20 acres.
3. Minimum street frontage: 100 feet.

B. RV Space Size and Dimensions.

1. Minimum RV space area: 1,000 square feet.
2. Minimum RV space depth: 40 feet.
3. Minimum RV space frontage on an internal RV park road: 20 feet.

C. RV Park Roadways.

1. Minimum internal roadway width: 28 feet.
2. Minimum entry roadway width: 32 feet or 16 feet for one-way traffic originating and terminating in a two-way roadway.
3. Roadways shall be paved to a thickness and material to meet City standards.

D. Setbacks.

1. Structures and vehicles shall be setback the minimum distance from exterior park boundaries as required by the applicable zoning district.
2. Structures and vehicles shall be setback a minimum of 10 feet from vehicles in separate spaces, buildings, and roadways.
3. The main entrance of a park shall have an additional 10 feet of landscaped setback above the minimum front setback of the applicable zoning district.

E. Permanent Buildings.

1. An RV park may contain one or more permanent buildings solely to serve residents of the park.
2. Permanent buildings shall comply with the development standards of the applicable zoning district and the setback requirements in Subsection D above.
3. Permanent buildings may not occupy more than 15 percent of an RV park.
4. Permanent buildings may be used only for the following purposes:
 - a. RV park administration and office.
 - b. Recreational amenities and meeting areas.

- c. Sales of packaged food, sundries and other convenience items customarily sold by convenience stores.
- d. Storage of park equipment, excluding commercial storage for nonresidents of the RV park.
- e. Other subordinate uses as described in the Conditional Use Permit for the RV park which are necessary and customary in order to operate a park.

F. Amenities. An RV park shall provide amenities in proportion to the area of the park as follows:

- 1. Restrooms: 1 restroom building for the first 50 spaces, plus 1 additional building for each additional 100 spaces. Restrooms shall include separate toilets for men and women and shower facilities.
- 2. Solid waste stations: 1 per 200 spaces in addition to a sewer connection for each space.
- 3. Recreation centers: 1 per 200 spaces. The first recreation center shall contain a swimming pool. Additional play areas may include an athletic field, picnic shelter, horseshoe pits, volleyball court, shuffleboard court, tennis court, additional swimming pools or similar facilities.

G. Landscaping.

- 1. All required front setbacks and RV park entrances shall be landscaped consistent with City standards and requirements.
- 2. The minimum landscaped area for each RV space is 10 percent of the space area or 200 feet, whichever is greater. At least one evergreen tree shall be planted and maintained within each RV space. No more than 70 percent of a space shall be nonpermeable (paved) area.
- 3. The minimum landscaped area for the RV overall is 20 percent of total park area, including individual RV space landscaping. Required amenities listed in Subsection F above, including recreational buildings and pools, may be counted within the park landscaping requirement.
- 4. Each RV park shall have at least one 500 feet by 100 feet area as a unified landscaped area visible from inside the park.

H. Sewer. Each RV space shall be connected to a sewer lateral meeting City standards which is connected to the RV park master sewer system. The RV park master sewer system shall be connected to the City sewer system. Septic tank connections are prohibited.

I. Water. Each vehicle space shall be connected to a water lateral meeting City standards which is connected to the RV park master water system, providing potable, safe and sanitary water. The RV park master water system shall be connected to the City water system.

- J. Pets.** Each RV space shall be treated as a residence for purposes of the City regulations regarding number of pets, leash laws and related pet regulations.
- K. Perimeter Screening.** Each RV park shall have a perimeter fence or wall built to City standards, at least 6 feet high, except that a fence or wall is not required in the landscaped front setback if individual RV spaces are not visible through the setback area from an adjacent public roadway.
- L. Accessory buildings and awnings.** An RV space may contain temporary accessory building as follows:
1. Accessory Buildings. One factory-enamel-coated metal shed per RV space, not to exceed 50 square feet in area, which is portable and not permanently affixed to the ground. Permitted use of such shed may include storage of the personal effects of the occupant or shelter for a pet.
 2. Awnings. One canvas, fiberglass or factory-enamel-coated metal awning per RV space, which may be freestanding or attached to the RV, which does not exceed in height, length or width the height, length or width of the RV and which is portable and not permanently affixed to the ground.
 3. All accessory buildings and awnings within RV spaces shall be the properties of the occupants of the space and shall not remain on the space after the occupants have vacated the space; nor shall the park owner own or maintain such accessory buildings or awnings on spaces.
- M. Signs.** An RV park may have identification, directory, and directional signs as permitted by Chapter 18.88 (Signs).

Chapter 18.84 – ACCESSORY DWELLING UNITS

Sections:

- 18.84.010 – Purpose
- 18.84.020 – Permits Required
- 18.84.030 – Permitted Zoning Districts
- 18.84.040 – Site and Design Standards
- 18.84.050 – Deed Restrictions

► *Note: Existing Chapter 18.55 has been revised to comply with recently adopted state law. Revisions address a new required time period to act on ADU applications, requirements for ADUs in existing space, Junior ADUs, setbacks for ADUs above garages and utilizing existing garage space, parking, and utility connections.*

18.84.010 – Purpose

► *Note: This section replaces existing Section 18.55.010 (Purpose).*

This chapter establishes standards for the location and construction of accessory dwelling units in conformance with Government Code Section 65852.2. These standards are intended to allow for accessory dwelling units as an important form of affordable housing while preserving the character and integrity of residential neighborhoods in Morgan Hill.

18.84.020 – Permits Required

► *Note: This section is new.*

- A. Zoning Clearance.** Accessory dwelling units consistent with the requirements of this chapter are allowed by-right with the issuance of a Zoning Clearance.
- B. Time Limit to Act.** The City shall complete its review of an accessory dwelling unit application requiring a Zoning Clearance and approve or deny the application within 120 days after receiving an application.

18.84.030 – Permitted Zoning Districts

► *Note: This section replaces existing Section 18.55.020 (Applicability).*

Accessory units are permitted in any zoning district where single-family detached dwellings are a permitted land use as identified in Part 2 (Zoning Districts and Overlay Zones) of the Zoning Code.

18.84.040 – Accessory Dwelling Units in Existing Space

► *Note: This section is new.*

An accessory dwelling unit within an existing primary dwelling, garage, or other accessory structure is permitted regardless of all other standards in this chapter if the accessory dwelling unit:

- A. Complies with all applicable building and safety codes;
- B. Provides independent exterior access from the primary dwelling; and
- C. Complies with all side and rear yard setback requirements of the applicable zoning district.

18.84.050 – Site and Design Standards

► *Note: Subsection D (Relationship to Primary Dwelling) replaces existing 18.55.030.D (Relationship to Primary Dwelling Unit). Subsection E (Maximum Unit Size) modifies existing 18.55.030.C (Maximum Unit Size) to allow 750 sq. ft. accessory dwelling units in all zoning districts. Subsection I (Doors and Windows) is new. Junior ADU, property line setback, parking reductions, and utility connection provisions are new.*

~~A.~~ **General.** Accessory units are subject to the same requirements that apply to primary dwellings on the same lot in the applicable zoning district except as specified in this section.

~~B.A.~~ **Minimum Lot Size.** ~~Accessory units are permitted only on lots that conform to the minimum lot size in the applicable zoning district as specified in Part 2 (Zoning District Standards) of the Zoning Code.~~

~~C.B.~~ **Number of Accessory Units.** No more than one accessory dwelling unit is permitted on a single lot.

~~D.C.~~ **Relationship to Primary Dwelling.**

1. An accessory dwelling unit may be within, attached to, or detached from the primary dwelling. Attachment to the primary dwelling shall be by sharing a common interior wall or common roof. No passageway (as defined in Government Code Section 65852.2(i)(5)) is required in conjunction with the construction of an accessory dwelling unit.
2. An accessory dwelling unit shall have its own kitchen, bathroom facilities, and entrance separate from the primary dwelling.
3. The City shall allow Junior Accessory Dwelling Units as defined in Government Code Section 65852.22 with an efficiency kitchen and bathroom facilities shared with the primary dwelling.

- The accessory dwelling unit shall be clearly subordinate to the primary dwelling by size, appearance, and location on the parcel.

E.D. Maximum Unit Size.

- Detached Accessory Units.** Table 18.84-1 identifies the maximum floor area for detached accessory dwelling units.

TABLE 18.84-1: MAXIMUM ACCESSORY UNIT FLOOR AREA

Zoning District	Maximum Floor Area
RE 10	1,200 sq. ft.
RE 2,5400,000	1,000 sq. ft.
RE 40,000	900 sq. ft.
All other zoning districts	750 sq. ft.

- Attached Accessory Units.** The maximum floor area of attached accessory dwelling units is 30 percent of the floor area of the primary dwelling or the floor area specified in Table 18.84-1, whichever is less.

F.E. Separation from Primary Dwelling. Detached accessory dwelling units must be setback a minimum of 6 feet from the primary dwelling unit.

G.F. Property Line Setbacks.

- No setback is required for an existing garage that is converted to an accessory dwelling unit.
- A minimum setback of 5 feet from the side and rear property lines is required for an accessory dwelling unit constructed above a garage.

H.G. Parking.

- Except as specified in this subsection, on-site parking for accessory dwelling units shall comply with all parking requirements in Chapter 18.72 (Parking and Loading).
- In addition to on-site parking spaces required for the primary dwelling unit, on-site parking spaces shall be provided for accessory dwelling units as shown in Table 18.84-2.

TABLE 18.84-2: REQUIRED ON-SITE PARKING SPACES FOR ACCESSORY DWELLING UNITS

Accessory Dwelling Unit Size	Required Number of On-Site Parking Spaces
Studio and one-bedroom accessory dwelling units	1 space (may be tandem)
Two-bedroom accessory dwelling units	2 spaces (may be tandem)

3. On-site parking spaces for accessory dwelling units may be covered or uncovered and may be located within the front, side or rear setback areas.
4. No off-street parking is required for an accessory dwelling unit in the following cases:
 - a. The accessory dwelling unit is located within one-half mile of the Morgan Hill Caltrain station or a bus transit stop with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.
 - b. The accessory dwelling unit is located within a National Register Historic District or other historic district officially designated by the City Council.
 - c. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - d. When there is a car share vehicle pick-up/drop-off location within one block of the accessory dwelling unit.
5. When an existing garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the Zoning Code requires that those parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

~~I.H.~~ Design. The design of accessory dwelling units shall be compatible with the design and scale of the primary dwelling (using substantially the same landscaping, color, materials and design on the exterior) and the general character of the neighboring residential properties.

~~J.I.~~ Doors and Windows. Openings (e.g., doors and windows) on exterior walls that are closest to and face adjacent residentially-zoned properties shall be designed to minimize privacy impacts and maintain access to light and ventilation on adjacent properties.

~~K.J.~~ Utility Connections.

1. **General.** An accessory dwelling unit shall not be considered a new residential use for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.
2. **Accessory Dwelling Units in Existing Space.** For an accessory dwelling units within an existing primary dwelling, garage, or other accessory structure, the City shall not require an applicant to install a new or separate utility connection directly between the accessory dwelling unit with and the utility or impose a related connection fee or capacity charge.
3. **Attached and Detached Accessory Dwelling Units.**
 - a. For detached accessory dwelling units and accessory dwelling units attached to and added on to a primary dwelling, the City shall require a new or separate

utility connection directly between an attached or detached accessory dwelling unit and the utility.

- b. Consistent with Government Code Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.
4. **Fire Sprinklers.** The City shall not require accessory dwelling units to provide fire sprinklers if they would not be required for the primary residence under the current Fire Code.

L.K. Septic Tank Disposal System.

1. In areas where septic tank disposal systems are allowed due to lack of sanitary sewer lines, detached accessory dwelling units shall be served by separate and independent septic tank sewage disposal systems. All leach lines shall be designed and installed in accordance with current septic system requirements of the Santa Clara County Environmental Health Services.
2. In other areas of the city, accessory dwelling units shall be connected to the sanitary sewer system through the existing lateral line serving the primary dwelling unit.

M.L. Maximum Number of Bedrooms. An accessory dwelling unit may contain no more than two bedrooms.

18.84.060 – Deed Restrictions

► *Note: This section is new.*

- A. **Deed Restriction Required.** Before obtaining a building permit for an accessory dwelling unit, the property owner shall file with the County Recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the current owner. The deed restriction shall state that:
 1. The accessory dwelling unit may not be sold separately from the primary dwelling.
 2. The accessory dwelling unit is restricted to the approved size as set forth in Section 18.84.040 (E).
- B. **Binding on Future Owners.** The above declarations shall be binding upon any successor in ownership of the property. Lack of compliance shall be cause for code enforcement and/or revoking the City's approval of the accessory dwelling unit.

– This Page Intentionally Left Blank –

Chapter 18.88 – SIGNS

Sections:

- 18.88.010 – Purpose
- 18.88.020 – Definitions
- 18.88.030 – Required Permits
- 18.88.040 – Signs Allowed Without Permits
- 18.88.050 – Prohibited Signs
- 18.88.060 – General Standards
- 18.88.070 – Adjustments to Sign Standards
- 18.88.080 – Sign Standards for Non-Residential Zones
- 18.88.090 – Sign Standards for Residential and Open Space Zones
- 18.88.100 – Standards for Specific Sign Types
- 18.88.110 – Master Sign Program
- 18.88.120 – Temporary Signs
- 18.88.130 – Nonconforming Signs
- 18.88.140 – Violations and Enforcement

18.88.010 – Purpose

This chapter establishes standards relating to the permitted type, size, height, placement, number, and design of signs. The intent of these standards is to:

- A. Support economically viable businesses serving city residents, workers, and visitors.
- B. Allow for signage that identifies businesses in a fair and equitable manner.
- C. Protect and enhance the aesthetic qualities of the city.
- D. Minimize hazards to motorists and pedestrians resulting from excessive, confusing, and distracting signs.
- E. Allow for a simple and streamlined sign permitting process.

18.88.020 – Definitions

- A. **Abandoned Sign.** A sign whose advertised use or service has ceased to function for a period of 90 days or more.
- B. **Off-Site Sign.** A sign advertising a land use, business, product, or service not located or available on the premises where the sign is located.
- C. **Portable Sign.** A movable sign not permanently attached to the ground or building.

- D. Sign.** Any structure, object, or device that uses letters, numbers, graphics, colors or other means of communication to advertise, announce, or communicate information of any kind to the public.
- E. Sign Copy.** The area of a sign occupied by letters, numbers, graphics, or other content intended to communicate information.
- F. Sign Face.** The area of a sign where sign copy is placed.
- G. Types of Signs.**
1. **A-Frame Sign.** A portable sign with two opposing flat faces designed to be self-supporting on the ground.
 2. **Awning Sign.** A sign incorporated into, attached, or painted on the face or valance of an awning.
 3. **Banner Sign.** A sign composed of lightweight, flexible, non-rigid material either enclosed or not enclosed in a rigid frame.
 4. **Beacon Sign.** A beam of light designed to draw attention to a particular location.
 5. **Changeable Copy Sign.** A sign with copy that that can be changed or rearranged electronically or manually without altering the face or surface of the sign.
 6. **Directional Signs.** A sign that provides directions to a place, structure or use, excluding signs installed by a public agency.
 7. **Directory Sign.** A sign which lists and identifies the location of the occupants of a multi-tenant building or site.
 8. **Hospital Sign.** A sign for a medical facility providing patient services primarily on an in-patient basis.
 9. **Inflatable Balloon Sign.** A sign consisting of a flexible envelope of nonporous materials that gains its shape from inserted air or other gas.
 10. **Flags.** Fabric, textile, or material with colors and/or patterns which display a symbol of a nation, state, company, or idea.
 11. **Freeway-Oriented Sign.** A sign intended to be viewed primarily by motorists traveling on Highway 101.
 12. **Freestanding Sign.** A sign attached to an independent, freestanding structure that is not attached to a building.
 13. **Marque Sign.** A sign made a part of or in any manner attached to a marquee.
 14. **Monument Signs.** A freestanding sign that is supported by a solid-appearing base constructed of permanent material.
 15. **Pole Sign.** A freestanding sign that is supported by one or more poles which do not have a solid-appearing base constructed of permanent material.

16. **Post Sign.** A temporary sign suspended from a horizontal swingpost that is attached to a vertical post mounted in the ground.
17. **Projecting Sign.** A sign permanently attached to a building or wall such that the sign face or faces are perpendicular to the building or wall.
18. **Property Identification Sign.** A sign identifying the name of a residential property or subdivision with ten or more units.
19. **Roof Signs.** A sign erected upon, against, or directly above a roof above the parapet of a building.
20. **Site Sign.** A temporary sign allowed on sites with uses under construction or not yet occupied.
21. **Suspended Sign.** A sign attached to or suspended from the underside of an arcade, canopy, or marquee and oriented to pedestrian traffic.
22. **Wall Sign.** A sign attached to or painted on the exterior wall of a structure with the display surface of the sign approximately parallel to the building wall.
23. **Window Sign.** A sign posted, painted, placed, or affixed in or on a window exposed to public view.

18.88.030 – Required Permits

► *Note. Paragraph B.3 references Chapter 18.104 (Common Permit Requirements) which requires all permits to be acted upon in two years – the existing Zoning Code requires Sign Permits to be acted upon in one year. Paragraph B.3 also replaces existing Section 18.76.050 (Permit – Application Requirements) to subject sign permits to the same basic requirements that apply to all permits. Existing Sections 18.76.110 (Inspections for permitted signs) and 18.76.120 (Environmental effects) are deleted. Paragraph B.5 (Findings for Approval) is new, reflecting existing Section 18.76.140 (Design Criteria for Consideration) and 150 (Conformance Conditions).*

A. Sign Permits.

1. **When Required.** A Sign Permit is required to install, display, or alter a sign except for signs exempt from sign permit requirements as specified in Section 18.88.040 (Signs Allowed Without Permits).
2. **Review Authority.**
 - a. The Community Development Director shall review and act on all Sign Permit applications except for signs reviewed by the Planning Commission as specified in Paragraph b below.
 - b. The Planning Commission shall review and act on Sign Permit applications for the following types of signs:

- (1) Changeable copy message board for automotive-related business adjacent to Highway 101 consistent with Section 18.88.100.B (Changeable Copy Signs);
 - (2) Freestanding freeway-oriented signs consistent with Section 18.88.100.C (Freestanding Freeway Oriented Signs);
 - (3) Off-site hospital signs consistent with Section 18.88.100.D (Hospital Signs);
 - (4) Off-site monument signs consistent with Section 18.88.100.D (Off-site Monument Signs);
 - (5) Adjustments to sign standards consistent with Section 18.88.070 (Adjustment to Sign Standards); and
 - (6) Master sign programs consistent with Section 17.88.110 (Master Sign Programs).
3. **General Permit Requirements.** The submittal and processing of Sign Permit applications shall comply with Chapter 18.104 (Common Permit Requirements).
 4. **Public Notice and Hearing.**
 - a. A noticed public hearing is not required for Sign Permits applications reviewed and acted upon by the Community Development Director.
 - b. The Planning Commission shall review and act on a Sign Permit application at a noticed public hearing in compliance with Chapter 18.104 (Common Permit Requirements).
 5. **Findings for Approval.** To approve a Sign Permit application, the review authority shall make all of the following findings:
 - a. The proposed signs are consistent with the General Plan, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.
 - b. The proposed signs comply with all applicable standards in this chapter.
 - c. The proposed sign will not adversely impact the public health, safety, or general welfare.
 - d. The number, size, placement, design, and material of the proposed signs are compatible with the architectural design of buildings on the site.
 - e. ~~The proposed signs are restrained in character and no larger than necessary for adequate identification.~~
- B. **Encroachment Permit.** A sign which projects into the public right-of-way requires ~~Public Works Director~~City Engineer approval of an Encroachment Permit.
 - C. **Building Permit.** For signs that require a Building Permit, the City may not issue the Sign Permit until the Building Permit has been approved by the Building Official.

18.88.040 – Signs Allowed Without Permits

-
- *Note. Types of signs exempt from permit requirement is expanded to include the following signs types: decorations, internal signs, ~~mural~~s, restaurant menu signs, real estate listings. Subsection B (Changes to Sign Face) is new to address content-neutrality legal issues.*
-

A. Types of Signs. The following signs are exempt from the permit requirements of this chapter and shall not be counted towards the allowable sign area or number of signs on a parcel:

1. **Alley and Service Area Signs.** Signs fronting an alley or service area mounted flat against a wall and not exceeding 25 square feet in aggregate area.
2. **Commemorative Plaques.** One commemorative plaque identifying a building name, date of construction, or similar information that is cut into, carved, or made of stone, concrete, metal, or other similar permanent material.
3. **Decorations.** Holiday and cultural observance decorations on private property which do not include any commercial advertising.
4. **Directional Signs.** On-site directional signs located entirely on the property to which they pertain, identifying direction to parking, restrooms, and similar public facilities, each not exceeding 5 feet in height and 5 square feet in area for non-residential uses and 2 square feet for residential uses.
5. **Directory Signs.** One directory sign per street frontage as follows:
 - a. Maximum area: 1 sq. ft. per tenant up to 24 sq. ft.
 - b. Maximum height: 6 ft. if freestanding
 - c. Internal illumination prohibited.
6. **Flags.** Flags bearing noncommercial messages or graphic symbols as follows:
 - a. No more than three flags are permitted per parcel.
 - b. For flags flown on a flagpole longer than 6 feet, the longest dimension of the flag shall not exceed one-third the height of the flagpole; otherwise the longest flag dimension shall not exceed six feet.
7. **Government Signs.** Signs installed by a governmental agency, including signs advertising community activities and local nonprofit, civic, or fraternal organizations.
8. **House Number and Nameplates.** House numbers and nameplates up to 4 square feet for each residential dwelling.
9. **Informational Signs.** Signs with information for the safety and convenience of the public such as address, hours and days of operation, whether a business is open or closed, no smoking notices, up to 3 square feet per sign and 10 feet in total.

10. **Internal Signs.** Signs within a building, or on the premises of a building, that are not visible from the public right-of-way and are intended for interior viewing only.

~~11. **Murals.** Murals on the exterior of a building that do not advertise a product, business, or service.~~

~~12.11.~~ **No Trespassing Signs.** "No trespassing" signs, each not more than 1 square foot in size, placed at each corner and each entrance to property, and at intervals of not less than 100 feet, or in compliance with the requirements of state or federal law.

~~13.12.~~ **Non-Commercial Bulletin Boards.** One bulletin board on a parcel occupied by a non-commercial place of public assembly, with a maximum area of 12 square feet.

~~14.13.~~ **Real Estate Listings.** Real estate listings posted in the window of a real estate office, with a maximum area of 25 percent of the total window area.

~~15.14.~~ **Restaurant Menu Signs.** Restaurant menu signs attached to a building, with a maximum area of 3 square feet.

~~16.15.~~ **Temporary Signs.** Temporary signs consistent with Section 18.88.120 (Temporary Signs).

B. Changes to Sign Face. Changes to a sign face that do not structurally alter or enlarge a legally-established sign are exempt from the permit requirements of this chapter.

C. Routine Maintenance. The painting, cleaning, repair, and normal maintenance of a legally-established sign are exempt from the permit requirements of this chapter.

~~**C.D. Murals and Decorations.** Murals and decorations on the exterior of a building that do not advertise a product, business, or service are not considered signs and are not subject to the requirements of this chapter.~~

18.88.050 – Prohibited Signs

► *Note: Subsection A (Prohibited Sign Types) modifies existing Section 18.76.210 (Pole and Roof Signs) to prohibit all pole and roof signs. Signs that move in the wind is added as a new type of prohibited sign. Auto for-sale sign prohibition in existing Section 18.76.130.A.13 is removed to address content neutrality requirements. Subsection D (Prohibited Sign Content) is new.*

A. Prohibited Sign Types. The following types of signs are prohibited:

1. Banners signs and pennants except when uses as a temporary sign consistent with Section 18.88.120 (Temporary Signs).
2. Beacon signs and searchlights.
3. Inflatable balloon signs and signs attached to inflated or gas-filled features.
4. Off-site signs, except for:
 - a. Off-site hospital signs consistent with Section 18.88.100.D (Hospital Signs);

- b. Off-site monument signs consistent with Section 18.88.100.D (Off-site Monument Signs);
- c. Off-site directional signs for community assembly uses in compliance with Section 18.88.100.H (Off-site Directional Signs for Community Assembly Uses)
- d. Temporary off-site directional signs in compliance with Section 18.88.120.D (Temporary Off-site Directional Signs).

5. Pole signs.

6. Portable signs, ~~except for portable A-frame signs in the MU-D zoning district in compliance with Section 18.88.120.I (Portable A-Frame Signs).~~

7. Roof signs.

~~Temporary political campaign signs that conflict with the City of Morgan Hill “Guidelines Regarding Size and Placement of Temporary Signs within Morgan Hill City Limits.”~~

8. Abandoned signs.

~~8.9. Murals and decorations on the exterior of a building that advertise a product, business, or service.~~

B. Prohibited Location or Placement. Signs with the following location and/or placement characteristics are prohibited:

- 1. Signs attached to or placed adjacent to any utility pole, parking meter, traffic signpost, traffic signal, or any other traffic control device.
- 2. Signs attached to trees.
- 3. Signs erected or maintained with horizontal or vertical clearance from overhead utilities less than required by state agencies.
- 4. Signs installed without permission of the owner or the owner’s agent of the property on which the sign is located.
- 5. Signs mounted or attached to a vehicle parked for the purpose of calling attention to or advertising a business establishment.
- 6. Signs projecting over a public ~~or private vehicular~~ roadway which have not received an encroachment permit from the ~~Public Works Director~~City Engineer.
- 7. Signs that obstruct or interfere with the free use of a fire escape, exit, stairway, door, ventilator or window in violation of the California Building or Fire Code.
- 8. Signs that interfere with visibility at an intersection, public right-of-way, driveway, or other point of ingress/egress. The City may require sign setbacks greater than specified in this chapter as needed to maintain adequate visibility for motorists and pedestrians.

C. Prohibited Design Features. Signs with the following design features and/or physical characteristics are prohibited:

1. Signs which constitute a traffic hazard due to highly reflective and fluorescent painted signs.
2. Signs which simulate in size, color, lettering, or design a traffic control sign or signal.
3. Animated signs which move, rotate, revolve and other similar signs that visibly moving or rotating parts or visible mechanical movement of any kind.
4. Signs which flash, blink, change color, or change intensity including digital display and electronic readerboard signs, except for changeable-copy signs for automotive businesses adjacent to Highway 101 and movie theater signs consistent with Section 18.88.120 (Changeable Copy Signs).
5. Signs emitting audible sounds, odor, or visible matter.
6. Signs that feature a flag, pennant, whirligig, or any device which is designed to wave, flutter, rotate or display other movement under the influence of wind.
7. Any sign that utilizes visible guy wires, angle irons and iron frame structures.
8. Signs or sign structures which have become a public nuisance or hazard due to inadequate maintenance, or dilapidation, ~~or abandonment.~~

D. Prohibited Sign Content.

1. The following sign content is prohibited:
 - a. Obscene or indecent text or graphics.
 - b. Text or graphics that advertise unlawful activity.
 - c. Text or graphics that constitute defamation, incitement to imminent lawless action, or true threats.
 - d. Text or graphics that present a clear and present danger due to their potential confusion with signs that provide public safety information (for example, signs that use the words "Caution," or "Danger," or comparable words, phrases, symbols, or characters in such a manner as to imply a safety hazard that does not exist).
 - e. Content advertising a use that has ceased to function for a period of 90 days or more.
2. The content prohibited by paragraph 1 above is either not protected by the United States or California Constitutions or are offered limited protection that is outweighed by the substantial governmental interests in protecting the public safety and welfare. It is the intent of the City Council that each subparagraph of paragraph 1 above be individually severable in the event that a court of competent jurisdiction were to hold one or more of them to be inconsistent with the United States or California Constitutions.

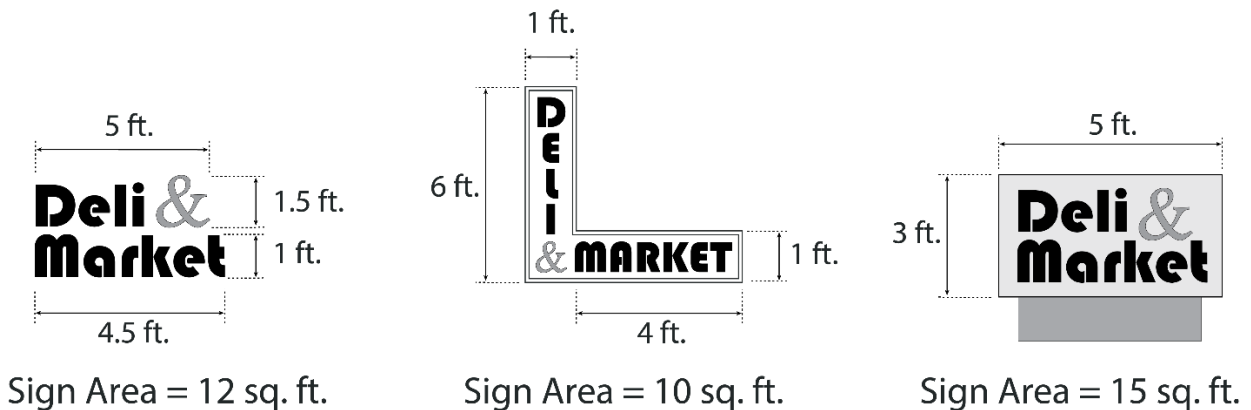
18.88.060 – General Standards

- *Note: Reference to Uniform Sign Code is removed from existing Section 18.76.310 (Building Code Compliance Required). Subsections A, B, and E from existing Section 18.76.320 (Construction specifications) are removed. Concrete foundation requirement for freestanding signs in existing Section 18.76.320.F is removed. Requirement that signs do not swing due to wind action in existing Section 18.76.320.H is removed. Existing Section 18.76.190 (Sign message limitations) and other content restrictions are removed. Subsection A (Measuring Sign Area) modifies existing Section (Computation of Frontage and Sign Area). Existing Sections 18.76.280 (Historical signs) and 18.76.300 (Special Sign Districts) have been removed.*

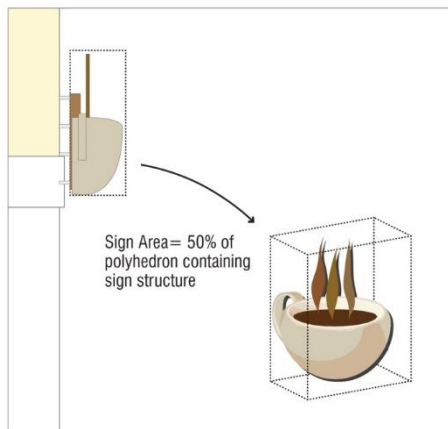
A. Measuring Sign Area.

1. Sign area is measured as the area of all sign copy, framing, or other display enclosed within a continuous perimeter composed of squares or rectangles. See Figure 18.88-1.

FIGURE 17-88-1: MEASUREMENT OF SIGN AREA



2. Supporting framework or bracing that is clearly incidental to the display itself shall not be calculated as sign area.
3. The area of a double-faced (back-to-back) sign shall be calculated as a single sign face if the distance between each sign face does not exceed 18 inches and the two faces are parallel with each other.
4. The area of spherical, free-form, sculptural or other non-planar signs are measured as 50 percent of the sum of the area enclosed within the four vertical sides of the smallest four-sided polyhedron that will encompass the sign structure. See Figure 18.88-2.

FIGURE 18.88-2: NON-PLANER SIGN AREA

- B. Building Code Compliance.** All signs shall comply with Chapter 15.08 (Building Code) and Chapter 15.12 (Electrical Code) of the Morgan Hill Municipal Code.
- C. Maintenance.** Signs, including all supports, braces, and anchors, shall be maintained in a state of good repair at all times. If the City determines that a sign has been damaged beyond 50 percent of its serviceable value, the sign shall be repaired and brought into compliance with all applicable requirements of this chapter.
- D. Building Surface Repair.** When an existing sign is replaced or modified, any newly exposed portions of a building surface on which the sign is displayed shall be repaired and repainted to restore a uniform appearance to the surface. Compliance with this requirement includes the removal of any excess conduit and supports, and the patching or filling of any exposed holes.
- E. Illumination.**
1. Non-residential signs may be internally or externally illuminated except where specifically prohibited. Internal illumination is permitted only when the portion of the sign that appears illuminated is primarily the sign lettering, registered trademark, or logo.
 2. The light source for externally illuminated signs shall be positioned so that light does not shine directly on adjoining properties or cause glare for motorists or pedestrians.
 3. Exposed bulbs are not permitted.
 4. Freestanding signs within the gateway areas as shown in the City of Morgan Hill Scenic Gateway Guidelines shall be non-illuminated or indirectly illuminated by exterior lighting sources only.
- F. Materials and Design.**
1. Except for interior window signs, all permanent signs shall be constructed of wood, metal, plastic, glass, or similar durable and weatherproof material.

2. The design of signs, including its shape, features, materials, colors, and textures, shall be compatible with the design character of the development or use it identifies and will not have an adverse effect on the character and integrity of the surrounding area.

G. Downtown Signs. Signs located within the Downtown Specific Plan overlay zone shall comply with the Signage Guidelines in the Downtown Specific Plan to the extent appropriate as determined by the review authority.

18.88.070 – Adjustments to Sign Standards

► *Note: This section replaces existing Section 18.76.395 (Variances).*

This section establishes procedures to allow the Planning Commission to approve signs that deviate from certain standards to provide reasonable flexibility in the administration of the sign ordinance.

- A. Permit Required.** Adjustments to sign standards allowed by this section requires Planning Commission approval of a Sign Permit.
- B. Permitted Adjustments.** The Planning Commission may allow adjustment to the following sign standards:
 1. The maximum permitted sign area up to a 25 percent increase.
 2. The maximum permitted sign height up to 25 percent increase.
 3. The maximum number of permitted signs.
 4. Requirements for temporary signs.
- C. Findings.** The Planning Commission may approve an adjustment to sign standards as allowed by this section if the following findings can be made in addition to findings required to approve the Sign Permit applications:
 1. The sign will be compatible with adjacent structures and uses and is consistent with the character of the neighborhood or district where it is located.
 2. The sign will not adversely impact neighboring properties or the community at large.
 3. The adjustment is necessary due to unique characteristics of the subject property, structure, or use.
 4. The sign will be consistent with the purpose of the zoning district, the General Plan, any applicable specific plan, and any adopted area or neighborhood plan.
 5. The adjustment will not establish an undesirable precedent.

18.88.080 – Sign Standards for Non-Residential Zones

► *Note. Paragraph B.3. modifies existing Section 18.76.180 (Computation of Frontage and Sign Area) to allow combining of frontages. Paragraphs B.4 (Multiple-Occupancy Commercial Sites with Limited Frontage) and B.5 (Minimum Allowance in Multi-Tenant Projects) is new.*

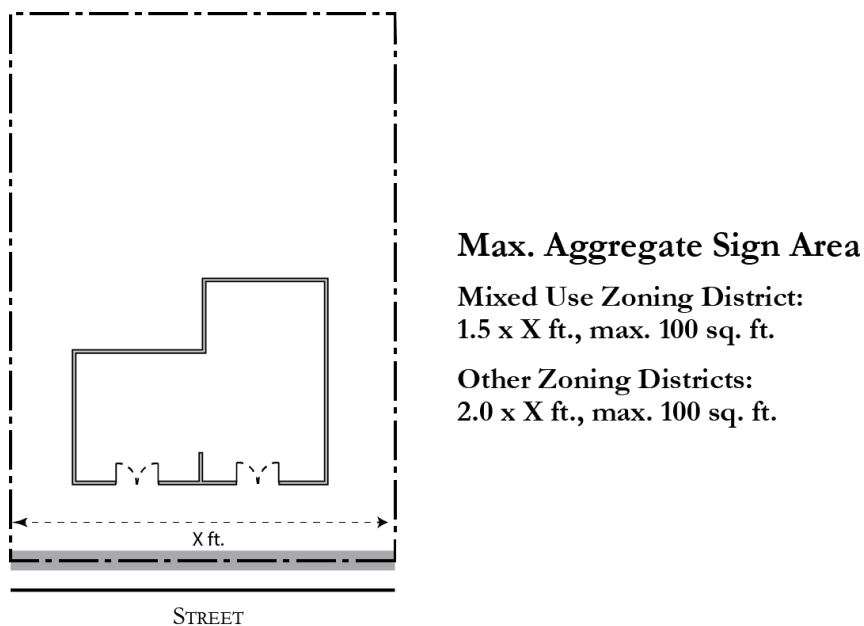
The sign standards in this section apply to properties in the mixed use (MU-D, MU-N, MUF), commercial (CN, CG, CH, CS), industrial (IL, IG, IC, IO), public facilities (PF), and sports recreation leisure (SRL) zones.

A. Signs Exempt from Permit Requirements. Signs that are exempt from the permit requirements of this chapter and do not count towards the allowable sign area or number of signs on a parcel are identified in Section 18.88.040 (Signs Allowed Without Permits).

B. Total Sign Area.

1. **General.** The maximum permitted aggregate sign area allowed on a parcel is as follows and as shown in Figure 18.88-3.

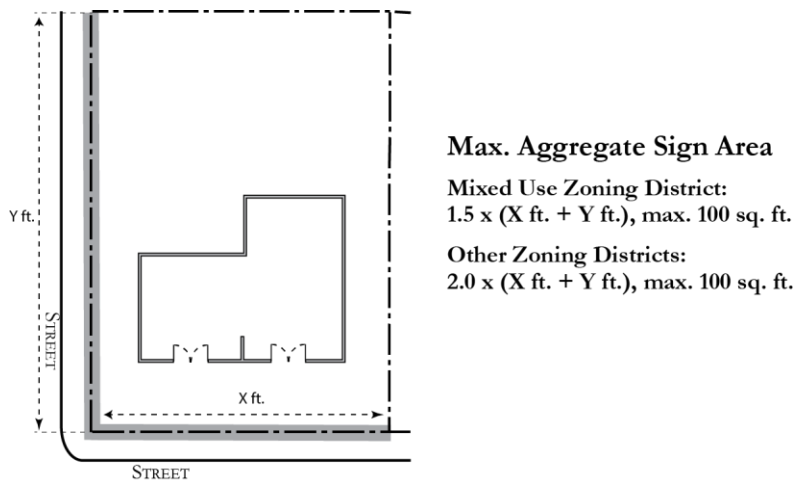
FIGURE 18-88-3: MAXIMUM AGGREGATE SIGN AREA – SINGLE FRONTAGE OUTSIDE DOWNTOWN SPECIFIC PLAN OVERLAY ZONE



- a. **Mixed Use Zones:** 1.5 square feet per lineal feet of street frontage to a maximum of 100 square feet.
 - b. **Commercial, Industrial, Public Facilities, and Sports Recreation Leisure Zones:** 2.0 square feet per lineal feet of street frontage to a maximum of 100 square feet.
2. **Downtown Specific Plan Overlay Zone.** The maximum permitted aggregate sign area allowed on a parcel in the Downtown Specific Plan Overlay Zone is as follows.

- a. **Buildings fronting Monterey Road, Third Street, and Depot Street:** 1.0 square feet per lineal feet of street frontage.
 - b. **Buildings Fronting Other Streets:** 0.75 square feet per lineal feet of street frontage.
3. **Sites with Multiple Frontages.** On parcels and sites with more than one frontage on a public street (excluding alleys), the maximum permitted sign area is calculated as follows:
- a. **Corner and Through Lots.** Where a lot fronts on two streets (a corner or “through lot”), either both the front and side, or front and rear lot lines as related to the applicable frontages may be used for calculating the allowable sign area.

FIGURE 17-88-3: MAXIMUM AGGREGATE SIGN AREA – SINGLE FRONTAGE OUTSIDE DOWNTOWN SPECIFIC PLAN OVERLAY ZONE



- b. **Three or More Frontages.** Where a lot has three or more frontages on a public street, the length of only two contiguous sides, one of which must be the principal street frontage, are added together to determine allowable sign area.
4. **Multiple-Occupancy Commercial Sites with Limited Frontage.** Where a multiple-occupancy commercial site has public street frontage equal to 20 percent or less of the perimeter measurement of the site, the maximum allowable sign area for the site is calculated as follows:
- a. One square foot of sign area per one lineal foot of public street frontage; plus
 - b. One lineal foot of exterior building walls fronting on driveways and parking lots that are generally used for public access and are located on the same site.
5. **Minimum Allowance in Multi-Tenant Projects.** For multi-tenant commercial projects, the aggregate sign area may be increased to the extent that each tenant has a minimum of 0.5 square feet of sign area per lineal foot of business frontage on the primary street frontage.

- C. Standards for Sign Types.** Signs within non-residential zoning districts shall comply with Section 18.88.100 (Standards for Specific Sign Types).
- D. Signage Guidelines - Downtown Signs.** Signs located within the Downtown Specific Plan overlay zone boundaries shall conform to the signage guidelines in the Downtown Specific Plan.
- E. Temporary Signs.** Temporary signs allowed in non-residential zoning districts are identified in Section 18.88.120 (Temporary Signs).

18.88.090 – Sign Standards for Residential and Open Space Zones

► *Note: Subsection B (Property Identification Signs) modifies rules for number of signs and sign area in existing Section 18.76.240.D (Subdivision Identification Signs. Subsection C (Non-Residential Signs) modifies existing Section 18.76.240 (Residential Zone Signs) to allow one monument and one wall sign per frontage; removes limitation on maximum letter height.*

The sign standards in this section apply to signs in the residential and open space zoning districts.

- A. Signs Exempt from Permit Requirements.** Signs that are exempt from the permit requirements of this chapter and do not count towards the allowable sign area or number of signs on a parcel are identified in Section 18.88.040 (Signs Allowed Without Permits).
- B. Property Identification Signs.** Residential properties or subdivisions with ten or more units may have property identification signs consistent with the following standards:
 1. **Maximum Number:** Two per street entrance.
 2. **Permitted Type:** Monument sign or attached to a masonry wall.
 3. **Minimum Setbacks:** 5 feet from property line.
 4. **Maximum Sign Area:** 32 square feet, which may be a single sign or divided between two signs on opposite sides of the street entrance.
 5. **Maximum Height:** 6 feet for monument signs.
 6. **Landscaping:** Must include landscaping around the base with minimum horizontal dimension of at least 4 feet.
 7. **Illumination:** External illumination only.
- C. Non-Residential Signs.** Signs for permitted non-residential uses in residential zones shall comply with the following standards:
 1. **Maximum Number:** One monument sign and one wall sign per street frontage.
 2. **Permitted Type:** Monument and wall signs.

3. **Maximum Sign Area:** 32 square feet for monument signs and 24 square feet for wall signs.
4. **Maximum Height:** 6 ft. for monument signs and 12 feet for wall signs
5. **Minimum Setback:** 10 feet from property line for monument signs
6. **Illumination:** External illumination only.

18.88.100 – Standards for Specific Sign Types

► *Note: For sign regulations that are not content neutral, statement explaining need for special treatment is added. Subsection I (Portable A-Frame Signs) removes content restrictions in existing Section 18.76.260.P (Portable Signs). Existing Section 18.76.290 (Agricultural Stand Signs) has been deleted. Subsection C (Freestanding Freeway-Oriented Signs) makes the following changes to existing Section 18.76.270 (Freestanding Freeway-Oriented Signs in Commercial and Industrial Zones: Revised eligibility only to unified commercial retail development of 100,000 sq. ft. or more on large lots that abut the Highway 101 right-of-way; standardized requirements (height, area) for both sides of Freeway and for different zoning districts; eliminated standards for single-use signs; reduced maximum area for multi-tenant signs; eliminated limit on number of businesses on a multi-tenant sign; eliminated restrictions on sign content; added new setback requirements; increased separation between signs from 200 feet to 1,000 feet; eliminated off-site sign provisions; eliminated shared sign provisions; added new design requirement.*

This section establishes standards for specific sign types where such signs are permitted.

A. Awning Signs.

1. **Maximum Area:** Two-thirds of awning valance area and 15 percent of awning face, or 25 square feet, whichever is less.
2. **Maximum Projection from Building Wall:** No greater than the awning.
3. **Minimum Vertical Clearance:** 8 feet.
4. **Minimum Horizontal Clearance:** 2 feet from street or drive aisle curb.
5. **Placement:** Sign may only be mounted on the wall area below the second floor.
6. **Materials:** Awnings shall be constructed of durable, long lasting fabric. Plastic or vinyl material is not permitted.

B. Changeable Copy Signs. The City Council finds that automotive-related businesses near to Highway 101 have unique needs for communicating their message due to large market area of car dealerships, the site area required to maintain inventory, and the tendency for multiple car dealerships to cluster in a single location. The City Council also finds that movie-theatres have unique needs for communicating their message due to the number of and frequent change to films typically showing at a single time.

1. **Where Permitted:** Changeable copy signs are permitted only for:

- a. Automotive-related business within 100 feet of the Highway 101 right-of-way; and
 - b. Movie theatres.
- 2. **Frequency of Copy Change:** Copy may change no frequently than every two minutes.
- C. Freestanding Freeway-Oriented Signs.** The City Council finds that large retail developments adjacent to Highway 101 have unique needs of communicating their message due to the high speed of vehicles traveling on the highway and the size and number of tenants located immediately to the freeway.
 - 1. **Eligibility:** Freestanding freeway-oriented signs are permitted on sites that are:
 - a. Occupied by an existing or proposed unified commercial retail development of 100,000 square feet or more;
 - b. A minimum of 10 acres; and
 - c. Directly abuts the Highway 101 right-of way.
 - 2. **Permit Required.** Freestanding freeway-oriented signs require Planning Commission approval of a Sign Permit.
 - 3. **Maximum Number:** 1 per site.
 - 4. **Maximum Height:** 50 feet.
 - 5. **Maximum Area:** 200 sq. ft. Ancillary components of a sign such as shopping center identification that does not exceed 25 percent of the total sign area may be excluded from the calculation of the sign area.
 - 6. **Setbacks:** 10 feet minimum from the highway right-of-way or other distance as determined by Caltrans and 200 feet minimum from a residential zone.
 - 7. **Total Aggregate Sign Area:** The area of a freestanding freeway-oriented sign shall not be included in the calculation of the maximum total aggregate sign area for the parcel or site.
 - 8. **Minimum Separation:** A freestanding freeway-oriented sign shall be separated a minimum of 1,000 feet from another freestanding freeway-oriented sign.
 - 9. **Design:** The sign shall be compatible with surrounding development and the uses which it serves in general appearance and materials.
 - 10. **Landscaping.** The sign base area shall be located in an irrigated landscaped planting area.
- D. Hospital Signs.** The City Council finds that special allowance for off-site hospital signs are necessary to facilitate wayfinding to a hospital in case of an emergency and to protect the public health, safety, and welfare. Two types of off-site hospital signs are permitted: freeway-oriented hospital signs and hospital directional signs.

1. **Off-Site Freeway-Oriented Hospital Signs.**

- a. **Location:** Signs must be located within 100 feet of the Highway 101 right-of-way and within 500 feet the closest highway off-ramp closest to the hospital.
- b. **Maximum Number:** one sign per hospital.
- c. **Maximum Height:** 15 feet.
- d. **Maximum Area:** 425 sq. ft.

2. **Off-Site Hospital Directional Signs.**

- a. **Maximum Number:** As necessary to provide adequate wayfinding to the hospital as determined by the Community Development Director.
- b. **Maximum Height:** 6 feet.
- c. **Maximum Area:** 15 sq. ft.

3. **Permit Required.** Off-Site Freeway-Oriented Hospital Signs and Off-Site Hospital Directional signs require Planning Commission approval of a Sign Permit.

E. Marque Signs.

- 1. **Maximum Number:** 1 per use.
- 2. **Maximum Height:** 35 feet.
- 3. **Maximum Area:** 500 square feet total for all sign faces.
- 4. **Use Restriction:** Limited to theatres, auditoriums, and indoor amusement/entertainment facilities.
- 5. **Maximum Projection from Building Wall:** 12 feet.
- 6. **Minimum Vertical Clearance:** 8 feet.
- 7. **Placement:** Sign shall be affixed to a building wall directly above the primary public entrance of the use.
- 8. **Animation:** Flashing or chase lights only.

F. Monument Signs.

- 1. **Maximum Number:** 1 per street frontage or 1 per vehicle access point from street, whichever is greater
- 2. **Maximum Height:** 8 feet.
- 3. **Maximum Area:** 0.5 square foot per lineal foot of property street frontage up to 50 square feet.
- 4. **Setbacks:** 6 feet minimum from vehicle access ways and 3 feet minimum from property lines.

5. **Minimum Separation:** Monument signs shall be separated a minimum of 75 feet from monument signs on abutting properties and 100 feet from monument signs on the same property.
6. **Landscaping:** The sign base area shall be located in an irrigated landscaped planting area.

G. Off-Site Monument Signs.

1. **Permit Required:** The Planning Commission may allow an off-site monument sign consistent with this section with the approval of a Sign Permit.
2. **Findings for Approval:** The Planning Commission may approve a Sign Permit an off-site monument sign upon making all of the following findings:
 - a. The site is geographically located such that the business has limited visibility from an arterial road.
 - b. The proposed off-site signage is necessary and appropriate to allow the business to be competitive with other businesses of a similar nature located elsewhere.
 - c. The proposed off-site signage will not have a significant adverse effect on the character and integrity of the surrounding area.
3. **Standards:** Off-site monument signs shall comply with standards for monument signs in Subsection C (Monument Signs) above.
4. **Additional On-Site Sign Prohibited:** A business that is advertised on an off-site sign may not also be advertised on an on-site monument sign.

H. Off-Site Directional Signs for Community Assembly Uses. City Council finds that community assembly uses have unique needs for communicating their messages due to their frequent location in residential neighborhoods and role as quasi-public uses within the community.

1. **Eligible Uses:** The City may install off-site directional signs for community assembly uses as defined in Section 18.124.030 (Community Assembly Uses).
2. **Maximum Number:** Two per use.
3. **Location:** Within public right-of-way.
4. **Other Requirements:** Signs shall be installed and maintained by the City at the applicant's expense.

~~I. Portable A-Frame Signs.~~

- ~~1. **Location:** Allowed only in the Downtown Mixed Use (MU-D) zoning district for businesses with buildings that front on Monterey Road south of West Main Avenue and north of West Dunne Avenue.~~
- ~~2. **Maximum Number:** 1 sign per business and no more than four per side of each block of Monterey Road.~~

- ~~3. **Maximum Dimensions:** 3.5 feet in height and 2.5 feet in width.~~
- ~~4. **Placement:** On Monterey Road in front of the tenant space occupied by the business, at least one foot from the curb and not in landscape planters or at sidewalk intersections. Sidewalk intersections means sidewalk areas bounded on two sides by intersecting streets and on the other two sides by the linear extension of the front and side property lines of corner parcels to the streets which create the corner. Placement of signs shall provide an open pedestrian path at least four feet in width unobstructed by portable signs.~~
- ~~5. **Material:** Signs shall be constructed of durable materials of sufficient weight to resist wind pressure.~~
- ~~6. **Permit:** Signs are allowed only when approved by the City. The applicant shall provide insurance in coverage amounts and types as required by the City risk manager. The applicant shall agree to defend, indemnify, and hold harmless the City and its officers, officials, agents, and employees from and against any and all claims, demands, actions, losses, damages, and injuries, arising from the signs.~~

J.I. Projecting Signs.

1. **Maximum Number:** One per building or tenant space.
2. **Maximum Area:** 8 square feet.
3. **Maximum Projection from Building Wall:** 4 feet.
4. **Signs in a Public Alley:** A sign which projects into a public alley shall be located at least 14 feet above the alley grade and may not project more than 12 inches from the wall to which it is attached.
5. **Minimum Vertical Clearance:** 8 feet.
6. **Minimum Horizontal Clearance:** 2 feet from the street or drive aisle curb.
7. **Placement:** Signs may only be mounted on the wall area below the second floor.

K.J. Suspended Signs.

1. **Maximum Area:** 5 square feet.
2. **Maximum Projection from Building Wall:** no greater than the structure to which it is attached.
3. **Minimum Vertical Clearance:** 8 feet.
4. **Minimum Horizontal Clearance:** 2 feet from street or drive aisle curb.
5. **Placement:** Sign shall be suspended below a ground-level awning, canopy, or ceiling of an arcade and shall be adjacent to the primary public entrance to the use.

L.K. Wall Signs.

1. **Maximum Number:** One per building frontage for single-tenant buildings and one per tenant space for multi-tenant buildings.

2. **Maximum Height:** Not to exceed the roof line or parapet of the building wall to which it is attached.
3. **Maximum Area:** For single-tenant buildings, 1.5 square feet per lineal foot of building wall to which it is attached. For multi-tenant buildings, 1.5 square feet per lineal foot of tenant frontage to which it is attached.
4. **Projection from Building Wall:** Not to exceed six inches.
5. **Placement:** Sign shall be attached to the building wall of the use associated with the sign. For multi-tenant buildings, sign shall be affixed to the portion of the wall where the business is located.

M.L. Window Signs.

1. **Maximum Area:** 25 percent of window to which it is attached.
2. **Placement:** Permitted only on ground floor windows.
3. **Transparency:** A minimum of 75 percent of the total window area for a use shall be transparent and free of signage features. Any sign attached to a window, within two feet of a window, or attached to a display located within two feet of a window is considered a window sign.

18.88.110 – Master Sign Program

► *Note. This section modifies existing Section 18.76.160 (Sign Programs for Projects) to add detail on sign program requirements.*

- A. Purpose.** The purpose of the Master Sign Program is to provide a coordinated approach to signage for multi-family development and multi-tenant commercial developments.
- B. Applicability.** A Master Sign Program is required for:
 1. Multi-family uses with more than one permanent sign proposed;
 2. Any non-residential development with four or more tenants; and/or
 3. Any building containing more than one business or tenant in the Downtown Specific Plan overlay zone.
- C. Permit Required.** A Master Sign Program requires Planning Commission approval of a Sign Permit.
- D. Applications.** Applications shall be filed with the Planning-Development Services Department on the appropriate City forms, together with all the necessary fees, deposits, exhibits, maps, and other information required by the Department to clearly and accurately describe the proposed Master Sign Program.
- E. Master Sign Program Contents.** All Master Sign Programs shall identify the materials, color, size, type, placement and general design of signs located on a project or property.

F. Design Standards.

1. Master Sign Programs shall feature a unified and coordinated approach to the materials, color, size, type, placement and general design of signs proposed for a project or property. Master Sign Programs may allow for variety in the design of individual signs provided that the signs contribute to a consistent visual theme within the property.
2. A Master Sign Program may deviate from standards contained in this chapter relating to permitted sign height, number of signs, sign area, and type of sign. A Master Sign Program may not allow a prohibited signs as identified in Section 17.80.060 (Prohibited Signs).

G. Effect of Master Sign Program.

1. All subsequent signs proposed for a development or property subject to an approved Master Sign Program shall comply with the standards and specifications included in the Master Sign Program.
2. Signs consistent with an approved Master Sign Program are allowed with an Administrative Sign Permit.
3. Approval of a Master Sign Program shall supersede the regulations of this chapter. Any aspect of the proposed signs not addressed by the Master Sign Program shall be in compliance with this chapter.

18.88.120 – Temporary Signs

-
- *Note: This section significantly changes existing temporary sign regulations to comply with the Reed v. Gilbert U.S. Supreme Court decision. Regulations for different types of temporary signs are changed to be content neutral (e.g., “post signs” replace for-sale signs and “site sign” replace construction signs). Subsection D (Temporary Off-Site Directional Signs) modifies existing Section 18.76.240.K (Temporary Directional Signs in Park Strips by Permit) to allow off-site directional sign for any new development project of a certain size; includes new language to justify why off-site directional sign is needed for this type of use and not others.*
-

- A. Residential Zoning Districts.** Temporary signs in residential zoning districts shall comply with the standards in Table 18.88-1.
- B. Non-Residential Zoning Districts.** Temporary Signs in non-residential zoning districts shall comply with the standards in Table 18.88-2.

TABLE 18.88-1: TEMPORARY RESIDENTIAL SIGN STANDARDS

	Type of Temporary Sign	
	Window, Wall, Freestanding, and Post Signs	Site Signs
Number of Signs	No max.	1 per property frontage; 2 max.
Area Per Sign	6 sq. ft. max.	32 sq. ft. max.
Area for All Signs Combined	24 sq. ft. max. per parcel	64 sq. ft. max. per site
Sign Height	6 ft. max.	8 ft. max. sign face, 12 ft. max. total
Setback from Property Line	No min. setback	5 ft. min.
Illumination	Not permitted	
Duration	See 18.88.130.C	
Other Requirements	-	Allowed only on sites with residential uses under construction or not yet occupied.

TABLE 18.88-2: TEMPORARY NON-RESIDENTIAL SIGN STANDARDS

	Wall	Freestanding	Banner	Window	Site
Number of Signs	No max.	1 max. per property		No max.	1 per property frontage; 2 max.
Area Per Sign	32 sq. ft.			25% of window area	32 sq. ft.
Area for All Signs Combined	1.0 per lineal property frontage				64 sq. ft. per site
Sign Height	8 ft.		No max.		8 ft. sign face, 12 ft. total
Setback from Property Line	No min. setback				5 ft. min.
Illumination	Not permitted				
Duration	See Section 18.88.120.C				
Other Requirements	-				Allowed only on sites with uses under construction or not yet occupied.

C. Duration. Temporary signs in all zoning districts shall be removed the earliest of when:

1. A commercial message is obsolete and has become misleading (e.g., a "for lease" or "for sale" sign in front of a building that is leased or sold);
2. The sign falls into disrepair; or
3. The sign has been displayed for the maximum number of days shown in Table 18.88-3.

TABLE 18.88-3: TEMPORARY SIGN DURATION STANDARDS

Sign Type and Material	Maximum Duration
Wall, Freestanding, Banner, and Window Signs	
Paper or cardboard sign face	3 days
Laminated paper; plastic lined polyethylene bags and comparable materials	30 days
Wood, corrugated plastic, metal, or vinyl sign face	3 months
Post Signs	
Wood, corrugated plastic, or metal sign face and finished wood or metal structure	9 months
Site Signs	
Vinyl sign face	1 month
Corrugated plastic sign face	6 months
Wood or metal sign face	1 year

D. Temporary Off-Site Directional Signs. The City Council finds that due to the existing configuration of streets and general development pattern there is a need to enhance wayfinding to large new development projects in Morgan Hill. As such, the City may allow temporary off-site directional signs within the public right-of-way as described below.

1. **When Allowed.** Temporary off-site directional signs are allowed to provide enhanced wayfinding to any development project under construction or not yet occupied on a site of 2 acres or more.
2. **Location.** Temporary off-site directional signs may be located within park strips between the curb and sidewalk or behind the sidewalk within the public right-of-way.
3. **Permit Required.**
 - a. Installation of temporary off-site directional signs requires the approval of a Temporary Use Permit in accordance with Section 18.92.~~140~~150 (Temporary Uses and Structures).
 - b. Applications for temporary off-site directional signs shall show the proposed location of signs in addition to all required fees, information, and materials as specified by the ~~Community Development~~Development Services Department.
 - c. Temporary Use Permits shall be valid for one year and may extended in accordance with Section 18.104.210 (Time Limits and Extensions).
 - d. The City may revoke the Temporary Use Permit at any time if the signs threaten the public health, safety, and welfare.
4. **Number and Size of Signs.**

- a. A maximum of 30 off-site directional signs are permitted per project.
- b. Each sign may have an area of no more than 4 square feet per side and a height of no more than 4 feet.

5. Sign Material and Design.

- a. Signs shall be constructed of flexible and weatherproof plastic or reinforced paper material that is permanently attached to a plastic or wooden stake. The top of the stake shall be flat or rounded and shall not be pointed.
- b. Signs may not be illuminated, inflatable or have moving parts.
- c. Signs may not include balloons, streamers, ribbons or other similar devices designed to move in the wind.
- d. Signs may not resemble traffic-control signs or devices.

6. Display Hours.

- a. Signs may be displayed in the period from five p.m. on Friday to no more than four hours after sunset on Sunday, and from five p.m. on the day prior to a holiday to no more than four hours after sunset on the day of the holiday.
- b. Stakes and cable ties must be removed when the signs are removed.

7. Sign Attachment.

- a. Signs shall be securely positioned and shall be either:
 - (1) Staked into the ground, or
 - (2) Attached to poles or posts by means of at least two plastic strips that are a minimum of one-quarter-inch wide (commonly known as "cable ties"), provided that no sign may be attached to any utility pole, traffic signal light post or to any pole or post displaying a traffic sign, motorist call box or historical marker as provided in Section 21464(a) of the California Vehicle Code. Where placement on a pole is allowed, a maximum of one directional sign may be installed. Cable ties must be sufficiently spaced to insure that the support stake is mounted parallel to the pole or post.
- b. Signs may not be attached in any manner to trees, utility poles, utility cabinets, street or traffic signs, benches, hydrants, mailboxes, traffic signal light post, or any pole or post displaying a traffic sign, motorist call box or historical marker.

8. Sign Location.

- a. Sign must be separated by at least 500 feet when on the same roadway, except that two signs on the same roadway may be located within 50 feet of an intersection if the signs are directing traffic to turn at the intersection.
- b. Signs must be setback at least 25 feet from a temporary park strip sign for a different development project.

- c. Signs may not be located:
 - (1) Within 18 inches of a curb where parking is allowed;
 - (2) In any bus stop zone;
 - (3) So that any part of the sign extends into any bus stop zone or sidewalk area;
 - (4) Within 20 feet of a driveway or curb cut access ramp;
 - (5) On medians, street barricades or on any structure located within the unimproved portions of the public right-of-way which exists beyond any face of curb or future curb line;
 - (6) Within 20 feet of any traffic-control sign or device installed by a public agency;
 - (7) Along any state or county right-of-way; or
 - (8) Within the Downtown Specific Plan overlay zone.
- 9. **Property Owner Consent.**
 - a. Signs may be placed on a park strip or behind the sidewalk only with the consent of the property owner and/or occupant of the parcel adjacent to the park strip or sidewalk where the sign is placed.
 - b. The property owner and/or occupant of the parcel adjacent to the park strip or sidewalk where the sign is placed may remove signs at any time.
- 10. **Insurance.** The applicant shall name the City as an additional insured in coverage amounts and types as required by the City risk manager.
- 11. **Indemnification.** The applicant shall agree to defend, indemnify, and hold harmless the City and its officers, officials, agents, and employees from and against any and all liability, claims, demands, actions, losses, damages, injuries arising out of or in connection with the temporary park strip signs.
- 12. **Removal.** The applicant shall agree to compensate the City to remove the signs if necessary for maintenance activities or to protect the public health, safety, and welfare.

18.88.130 – Nonconforming Signs

► *Note: This section is new.*

This section applies to all legally-established signs that do not conform to current requirements in this chapter.

- A. Continuation.** A nonconforming sign may continue its use as a sign if it was legally established in compliance with all applicable regulations in effect at the time it was established. It is the applicant's responsibility to demonstrate that the sign was legally established.
- B. Allowed Changes.**
1. Changes to sign copy/face and repainting of legal nonconforming signs is permitted as long as there is no alteration to the physical structure or support elements of the sign.
 2. A legal-nonconforming sign that sustains less than 50-percent damage to its structure may be repaired to its original pre-damaged condition, provided that such repair is completed within 180 days after the date of the damage.
- C. Required Compliance.** A legal nonconforming sign shall be removed or brought into compliance with this chapter in the following situations:
1. The use advertised by the sign has ceased to function for a period of 90 days or more.
 2. The sign has sustained at least 50-percent damage to its structure.
 3. The sign is located on a remodeled building façade.
 4. The sign is relocated to a different lot or building.

18.88.140 –Violations and Enforcement

► *Note. Subsection B (Enforcement – General) replaces existing Section 18.76.390 (Abatement for Noncompliance) 18.76.410 (Violation—Notice—Penalty). Subsection C (Removal of Illegal Signs) is new.*

- A. Illegal Signs.** It is unlawful for any person to install, place, construct, repair, maintain, alter or move a sign in a manner that does not comply with the requirements of this chapter.
- B. Enforcement - General.** The City shall enforce the requirements of this chapter and undertake legal action to correct violations in accordance with Chapter 18.120 (Enforcement) and Municipal Code Title 1 (General Provisions).
- C. Removal of Hazardous and Illegal Signs.**
1. The City may immediately remove or cause the removal of any sign that places the public in immediate peril or that is located within the public right-of-way.
 2. For illegal signs that do not place the public in immediate peril and are located on private property, the City shall serve the business owner or person responsible for the sign a written certified notice that:
 - a. Describes the physical characteristics of the subject sign.

- b. Explains the nature of the violation.
 - c. States that the sign shall be removed or brought into compliance with this article within 30 days after the notice is received.
 - d. States that the City may remove the sign if the business owner or person responsible for sign does not correct the violation within 30 days after the notice is received.
 - e. States that the City may destroy the illegal sign if it is not retrieved within 30 days after removal by the City.
 - f. States that the business owner shall be responsible for all costs associated with the removal, storage, and destruction of the sign.
- 3. If an illegal sign is not removed or brought into compliance within 30 days after a notice is received, the City may issue a citation to the business owner or person responsible for the sign as provided in Chapter 18.120 (Enforcement) and Municipal Code Title 1 (General Provisions) and may remove or cause the removal of the sign.
 - 4. Any accessory structures, foundations, or mounting materials which are unsightly or a danger to the public health, safety, and welfare shall be removed at the time of the sign removal.
- D.** A sign removed by the City shall be stored for a minimum of 30 days. If the sign is not retrieved by the business owner or person responsible for the sign within this 30-day period, the City may destroy the sign.

– This Page Intentionally Left Blank –

Chapter 18.92 – SUPPLEMENTAL STANDARDS

Sections:

- 18.92.010 – Purpose
- 18.92.020 – Adult Businesses
- 18.92.030 – Convenience Markets
- 18.92.040 – Drive-Through Facilities
- 18.92.050 – Emergency Shelters
- 18.92.060 – Home Occupations
- 18.92.070 – Interim Uses in the MU-D and MU-F Zoning Districts
- 18.92.080 – Intersection Sight Distance
- 18.92.090 – Medical Marijuana
- 18.92.100 – Mini-Storage
- 18.92.110 – Natural Resource and Hazard Setbacks
- 18.92.120 – Outdoor Sales and Displays
- 18.92.130 – Residential Transition Standards
- 18.92.140 – Rooftop Solar Energy Systems
- 18.92.150 – Temporary Uses and Structures

18.92.010 – Purpose

This chapter establishes supplemental standards that apply to specific land uses and development in all zoning districts.

18.92.020 – Adult Businesses

► *Note: Detailed definitions of example adult businesses in existing Chapter 18.04 (Definitions) have been removed.*

- A. Purpose and Applicability.** This section establishes standards for the location, approval, and operation of adult businesses as defined in Subsection C (Definitions) below.
- B. Exceptions.** The following types of businesses are exempt from the requirements of this section:
 - 1. **Therapeutic or Holistic Massage.** Massage which is conducted by doctors, nurses, osteopaths or chiropractors, teachers, barbers, beauticians or by massage practitioners or employees as licensed by or otherwise exempted under Municipal Coder Chapter 5.32 (Massage Establishments).

2. **Medical or Psychological Therapies.** The medical or psychological therapeutic activities of state-licensed doctors, psychologists, psychiatrists or marital or sexual therapists are exempt.
3. **Modeling or Theatrical Performances.** Nude modeling done at infrequent intervals in connection with a college or art school, accredited by a nationally recognized accreditation organization, for students who have enrolled on a semester or quarterly basis with tuition is exempt. Occasional theatrical performances, either live or in motion picture theaters, in which nudity is incidental to the content of the presentation, are exempt.
4. **Incidental Sale or Rental of Merchandise.** Businesses which incidentally sell or rent adult merchandise, involving less than twenty percent of the floor space of the establishment or less than twenty percent of the net receipts, whichever is greater, are exempt, providing that all other laws on obscenity and indecent behavior are complied with.
5. **Private Noncommercial Behavior.** This title does not regulate the private behavior of adults, which is otherwise permitted by law, where there is no payment, gratuity, exchange of labor or goods, or other consideration of a transaction.

C. Definitions.

1. **Adult Business.** "Adult business" means a business which includes any of the following:
 - a. Sells or rents items related to specified anatomical areas or specified sexual activities for over 20 percent of the year, and which items represent over 20 percent of the inventory or stock in trade or titles offered or floor space and/or over 20 percent of the net receipts of the business, whichever is greater.
 - b. Depicts or projects still or moving photographs related to specified anatomical areas or specified sexual activities for over 20 percent of the year, which depiction or projection represents over 20 percent of the net receipts of the business.
 - c. Provides live entertainment, massage or other service to patrons, regardless of percentage of net receipts or other measurement of share of the overall business, which is related to specified anatomical areas or specified sexual activities.
 - d. "Adult businesses" include but are not limited to: adult bookstores, adult video stores, adult novelty stores, adult arcades, adult motels, adult theaters, adult entertainment enterprises, adult cabarets, escort agencies, massage parlors, nude modeling studios; or places which engage in or allow couch dancing, topless dancing, nude or semi-nude mud wrestling or similar businesses.

2. **Specified Anatomical Areas.** "Specified anatomical areas" means and includes any of the following:
 - a. Less than completely and opaquely covered human genitals, pubic region, anus or female breasts below a point immediately above the top of the areolae; or
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
3. **Specified Sexual Activities.** "Specified sexual activities" means any of the following:
 - a. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts; or
 - b. Sex acts, actual or simulated, including intercourse, oral copulation or sodomy; or
 - c. Masturbation, actual or simulated;
 - d. Human genitals in a state of sexual stimulation, arousal or tumescence; or
 - e. Excretory functions as part of or in connection with any of the activities set forth in this section.

D. Standards. All adult businesses shall comply with the following standards:

1. **Location.**
 - a. An adult business may be located no less than 500 feet from a sensitive use or area.
 - b. A sensitive use or area means any one the following:
 - (1) A religious institution, on land leased or owned by any church, synagogue, mosque, temple or any school or meeting hall operated by such institution.
 - (2) A public or private elementary, junior high or high school, preschool or child day care center.
 - (3) A public park on which recreation games may be played, including lawn and parking areas, but excluding natural open space on slopes exceeding 20 percent.
 - (4) A public assembly or public use civic building, including City Hall, the library and the post office, but excluding police and fire stations.
 - (5) An area developed with or shown on the General Plan Land Use Map for future residential development.
 - (6) A hospital except a veterinary hospital.
 - (7) A freeway or arterial street identified in the General Plan and which residential and visitor traffic uses to access other sensitive areas.

2. Required Police Reports.

- a. All adult businesses shall receive and maintain approval a police permit pursuant to Municipal Code Section 5.60.010 (Police Permits).
- b. Adult businesses shall cease and desist operations within 48 hours of the City's denial or revocation of a police permit.

3. Operational Standards. Adult businesses shall comply with all standards in Municipal Code Section 5.60.020 (Operational Standards).**18.92.030 – Convenience Markets****A. Purpose.** This section establishes standards for convenience markets in order to:

1. Ensure the compatibility of convenience markets with neighboring commercial and residential land uses;
2. Minimize potential negative impacts from convenience markets on adjacent land uses; and
3. Require new convenience markets to incorporate crime prevention measures to protect the public health, safety, and welfare.

B. Separation Between Convenience Markets.

1. A new convenience market shall be located a minimum of 1,000 feet from an existing or approved convenience market except as allowed by Paragraph 2 below. The distance between convenience markets shall be measured as the straight-line distance between the exterior walls of the market structures.
2. The City may allow exceptions to the separation requirement in Paragraph 1 above for:
 - a. One convenience market (regardless of size) on property adjacent to the interchange of Highway 101 and Dunne Avenue, Tennant Avenue, and Cochrane Road; and
 - b. Convenience markets with 300 hundred square feet or less of area devoted to sales and display.

C. Separation from Schools. A new convenience market shall be located a minimum of 1,000 feet from the boundary of an existing school or a proposed school site as designated by the Morgan Hill Unified School District.**D. Restrooms and Automotive Services.** Convenience markets which also sell automotive fuels shall provide the following additional services without charge:

1. One restroom for women and one restroom for men available to customers and employees. If restroom entrances open directly to the outside of the building, the restroom entrances shall be screened from public view.

2. Hoses conveying air and water for the service of automotive vehicles available for public uses in locations approved by the ~~Community Development~~Development Services Department.

E. Loiter Control.

1. Public pay telephones on an exterior wall of the convenience market or anywhere on the site shall not allow incoming calls. Public telephones allowing incoming calls are allowed within the building interior.
2. Video games may not be installed or operated on the premises of the convenience market.
3. The Police Department may require additional loiter control measures as conditions of approval for the convenience market Conditional Use Permit.

F. Crime Prevention Measures.

1. The exterior of the convenience market shall be illuminated during all hours of darkness during which the market is open for business. Exterior illumination shall allow law enforcement personnel to easily identify persons within front entry areas, adjacent public sidewalks, parking areas, throughways, and alleys under control by the convenience market. Illumination shall be located and designed to minimize interference with the quiet enjoyment of nearby residential properties.
2. Commercial alarm systems and video security cameras shall be installed and maintained within the building to the specifications of the Police Department as required by the Conditional Use Permit.
3. The Police Department may require additional crime prevention measures as conditions of approval for the convenience market Conditional Use Permit.
4. Persons under the age of 18 who are employed in a capacity which allows for selling of alcoholic beverages must be under the continual supervision of a person 21 years of age or older.

G. Concurrent Sale of Alcoholic Beverages and Automotive Fuels. If concurrent sale of alcoholic beverages and automotive fuels are proposed in conjunction with the convenience market use, the following additional requirements shall apply as specified in Section 23790.5 of the Business and Professions Code:

1. No alcoholic beverages shall be displayed within 10 feet of the cash register or front door unless located within a permanently affixed cooler.
2. No display or sale of alcoholic beverages shall be made from an ice tub.
3. No alcoholic beverage advertising shall be located on fuel pump islands and no advertising for alcoholic beverages shall be located on buildings or windows.
4. Employees on duty between the hours of ten p.m. and two a.m. who sell beer or wine shall be at least 21 years of age.

18.92.040 – Drive-Through Facilities

- A. Purpose.** This section establishes standards for drive-through facilities to ensure adequate circulation of vehicles entering and exiting the facility and to protect pedestrian safety within the vicinity of the facility.
- B. Drive-Through Lane Capacity.** Drive-through lanes for fast food restaurants shall have a capacity for at least eight vehicles, at 20 feet per vehicle. Drive-through lane capacity for other types of drive-through establishment uses will be determined by the Planning Commission through the Conditional Use Permit process based on appropriate traffic engineering criteria and addressing the following issues:
1. Nature of the product or services being offered;
 2. Method by which the order is processed;
 3. Time required to serve a typical customer;
 4. Arrival rate of customers; and
 5. Peak demand hours.
- C. Drive-Through Lane Separation.** Drive-through lanes shall be separate from the circulation lanes necessary for entering and exiting the property and providing access to parking.
- D. Pedestrian Access.** Pedestrian access routes shall not cross a drive-through lane within the minimum stacking space distance as provided under subsection A above.
- E. Drive-Through Lane Setback from Intersection.** Vehicular entrance or exit to a drive-through establishment shall be setback from the nearest public street intersection as shown in Table 18.92-1:

TABLE 18.92-1: DRIVE-THROUGH LANE SETBACK FROM INTERSECTION

Access Street Signed Speed	Clear Distance from Adjacent Public Street Intersection	
	With Median Opening	Without Median Opening
25	105 ft.	55 ft.
30	125 ft.	65 ft.
35	150 ft.	75 ft.
40	185 ft.	95 ft.
45	230 ft.	115 ft.
50	285 ft.	145 ft.
55	350 ft.	175 ft.

18.92.050 – Emergency Shelters

► *Note: This section is new.*

- A. Purpose.** The purpose of this section is to comply with State Government Code Section 65583(a)(4), which requires that emergency shelters be permitted by-right in at least one zone with sufficient capacity to accommodate the local need for emergency shelter.
- B. Applicability.** Standards for emergency shelters contained in this section apply to all emergency shelters where permitted by this title.
- C. Minimum Performance Standards.**
1. The number of beds shall be limited to 30.
 2. Parking requirements shall be either one space per 300 square feet of habitable floor area, or sufficient to serve the parking demand determined in a study prepared by the applicant and approved by the ~~Community Development~~ Development Services Department.
 3. The size of outdoor waiting areas shall be sufficient to accommodate the expected number of clients without infringing upon the public right-of-way.
 4. On-site management shall be provided during the hours that the emergency shelter is in operation.
 5. An emergency shelter shall be located at least 300 feet from other emergency shelters.
 6. The length of stay at any emergency shelter shall not exceed 90 days, unless the management plan provides for longer residency by those enrolled and regularly participating in a training or rehabilitation program.
 7. Exterior lighting of the property shall be designed to provide a minimum maintained horizontal illumination of at least one foot candle of light on parking surfaces and walkways that serve the facility.
 8. Security shall be provided during the hours that the emergency shelter is in operation.

18.92.060 – Home Occupations

► *Note. This section makes the following changes to existing Section 18.48.055 (Home Occupations): Replaces requirement that home occupation is “incidental and secondary” to a maximum floor area standard; allows up to two outside employees with a Conditional Use Permit; eliminates requirement that home occupation be conducted only in one room; allows outdoor storage provided it is not visible from a property line; added standard for client contact; added statement requiring business license; expanded list of prohibited home occupations.*

A. Purpose. This section establishes standards for home occupations and cottage food operations to allow residents to conduct business and employment activities in their home in a manner compatible with a residential setting.

B. Permit Required.

1. A Zoning Clearance is required for all home occupations.
2. A Zoning Clearance for a home occupation is valid only for the original permit holder and may not be transferred to a new resident in the dwelling unit who replaces the original permit holder.

C. Business License. All persons conducting a home occupation shall obtain a Morgan Hill business license and pay the required license tax in accordance with Municipal Code Chapter 5.04 (Business Taxes, Licenses, and Regulations).

D. Standards. All home occupations shall comply with the following standards:

1. **Size.** Home occupations may not occupy more than 25 percent of the floor area of the dwelling unit or 400 square feet, whichever is less.
2. **Employees.** Employees of a home occupation shall be limited to the persons residing in the dwelling unit. The Planning Commission may allow a home occupation with up to two employees not residing in the dwelling unit with the approval of a Conditional Use Permit.
3. **Outdoor Storage Prohibited.** Goods, equipment, and materials associated with a home occupation shall be stored within an enclosed structure or in a manner that is not visible from the property line.
4. **Hazardous Materials Prohibited.** The storage of flammable, combustible, or explosive materials is prohibited.
5. **Performance Standards.** Home occupations shall not generate dust, odors, noise, vibration, or electrical interference or fluctuation that is perceptible beyond the property line.
6. **Residential Appearance.** The appearance of the dwelling shall not be altered, nor shall the home occupation be conducted in such a manner that it may be reasonably recognized as serving a nonresidential use, either by color, materials, construction, lighting, signs, sounds, odors, or vibrations.

7. **On-Site Client Contact.** No more than one client/customer at the property at one time. Customer or client visits are limited to three per day, or six per day for personal instruction services (e.g., musical instruction or training, art lessons, academic tutoring).
 8. **Signs.** Signs or displays used to identify the home occupation are prohibited.
 9. **Licenses and Registrations.** Persons conducting home occupation shall obtain all applicable licenses and registrations required by local, state, and federal law.
 10. **Vehicle Traffic.** Home occupations may not generate more than 20 vehicle trips per day. A round trip to and from the residence is one vehicle trip and multiple trips by the same vehicle shall count towards the maximum amount. Vehicle trips include trips by customers, vendors, delivery services or any other vehicle associated with the home occupation. A home occupation that requires marketing meetings or gatherings may exceed the maximum vehicle trips on two occasions per month.
 11. **Business Vehicles.** No more than two vehicles used in the operation of the home occupation may be kept, garaged or parked on the property associated with the home occupation or any adjacent residentially zoned area.
 12. **Nonresident Employee Vehicles.** Nonresident employee vehicles associated with the home occupation may not be kept, garaged or parked on the property or any adjacent residentially zoned area.
- E. Cottage Food Operations.** Cottage food operations (CFO) as defined in Assembly Bill No. 1616 - Chapter 415, Chapter 6.1 Section 51035 to Part 1 of Division 1 of Title 5 of the Government Code is a permitted home occupation subject to the following requirements:
1. The cottage food operation shall comply with Chapter 18.48 (Performance Standards).
 2. The use of any commercial equipment as listed in the California Mechanical Code is prohibited.
 3. The cottage food operation shall comply with California Department of Public Health regulations, including:
 - a. Cottage food operations overview;
 - b. Registration and permit requirements; and
 - c. Approved cottage foods list.
 4. All cottage food operations shall be registered or permitted by Santa Clara County Department of Environmental Health before commencing business.
 - a. "Class A" cottage food operations must submit a completed self-certification checklist approved by the local environmental health agency when they submit their registration application.

- b. "Class B" operations must submit a permit application and be inspected prior to obtaining a permit from the local environmental health agency.
- 5. The cottage food operation must provide the City with a copy of approved County registration application before a business license or Zoning Clearance will be issued.

F. Prohibited Home Occupations. The following uses are prohibited as home occupations:

- 1. Medical offices and clinics.
- 2. Schools.
- 3. Animal boarding.
- 4. Restaurants.
- 5. Retail involving on-site sales.
- 6. Vehicle-related uses, including vehicle repair and maintenance and vehicle washing
- 7. Construction and material yards.
- 8. Other similar uses as determined by the Community Development Director.

G. Violations and Enforcement. The Zoning Clearance for a home occupation that violates any of the standards in Subsection D (Standards) above may be revoked in accordance with Chapter 18.120 (Enforcement) and the City may abate the violation according to the procedures in Municipal Code Chapter 1.18 (Administrative Citations and Fines).

18.92.070 – Interim Uses in the MU-D and MU-F Zoning Districts

► *Note: This section makes the following changes to existing Article III (Interim Use Permits) of Chapter 18.54: requires a CUP for interim uses instead of an Interim Use Permit; requires Planning Commission instead of City Council approval.*

- A. Purpose.** This section establishes a process to allow interim non-profit uses in the Downtown Mixed Use (MU-D) and Mixed Use Flex (MU-F) zoning districts to defer on-site improvements.
- B. Permit Required.** Eligible uses which defer of on-site improvements as allowed by this section require Planning Commission approval of a Conditional Use Permit.
- C. Eligible Interim Uses.** Non-profit entities that engage in uses permitted or conditionally permitted in the MU-D and MU-F zoning districts may request a deferment of on-site improvements as allowed by this section.
- D. Improvements Eligible for Deferment.**

1. The City may allow eligible interim uses to defer physical on-site improvements if such deferment would not adversely impact the public health, safety or welfare and would not violate any requirement of state or federal law.
2. Development impact fees may not be deferred or waived under this section.

E. Application - General. A Conditional Use Permit application for an interim use shall be submitted and reviewed by the City in accordance with Chapter 18.104 (Common Permit Requirements) and Section 18.108.030 (Conditional Use Permits).

F. Application Submittal Requirements. In addition to application materials required by the ~~Community Development~~Development Services Department for the Conditional Use Permit, applications for an interim use shall also contain the following information and materials:

1. A detailed list of required on-site improvements, the estimated cost of each improvement, the improvements requested to be deferred, and the impact on health and safety from the deferral of improvements.
2. Statement of proposed operations, including but not limited to:
 - a. A general overview of services to be provided and staffing;
 - b. The expected time for provision of such services;
 - c. Expected vehicle and pedestrian traffic generated by the operation; and
 - d. The expected use of hazardous materials, if any.
3. A copy of the lease and all attached documents.
4. A plan for exiting the site, including but not limited to:
 - a. A timeline for purchase and/or lease of a permanent site;
 - b. Relocation funding sources; and
 - c. Plans for moving operations to an alternate site, including personnel responsible for administering the move.
5. Other information as required by the ~~Community Development~~Development Services Department to evaluate the application.

G. Findings. To approve the interim use, the Planning Commission must make all of the findings for approval in Section 18.108.030 (Conditional Use Permits) plus the following additional findings:

1. The use will not adversely impact nearby property values.
2. The applicant has submitted a viable exit plan for future relocation to an alternative site.
3. The use will comply with minimum required on-site safety standards to protect the public health, safety, and welfare.

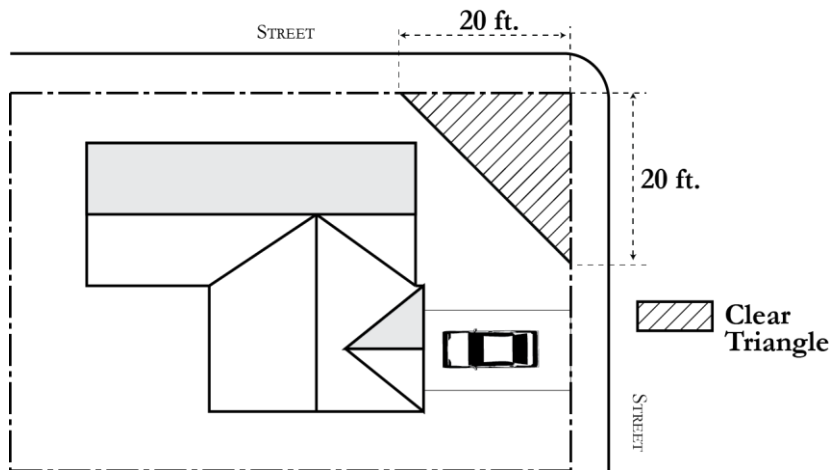
4. The use will provide a public benefit to the community.
- H. Performance Bond.** The Planning Commission may require the applicant to submit a performance guarantee in compliance with Section 18.104.190 (Performance Guarantees) to ensure the future restoration and cleanup of the site.
- I. Annual Review.** Within one year of approval and one year thereafter, the permit holder shall provide a written report on the status of the use and plans to relocate to an alternative permanent location. The Community Development Director shall review each written report and verify compliance with the Conditional Use Permit and conditions of approval.
- J. Violations.** The permit holder shall correct any violations of Conditional Use Permit or conditions of approval within 30 days of receiving notice of violation. The City may revoke the Conditional Use Permit in accordance with Section 18.104.240 (Permit Revocation) if the permit holder does not correct the violation.
- K. Permit Duration.** The Conditional Use Permit for the interim use shall expire whenever the non-profit ceases operations, moves from the site, or three years after initial approval, whichever occurs first. Conditional Use Permits for interim uses may not be renewed or extended.

18.92.080 – Intersection Sight Distance

► *Note: Allowance for pruned trees in Subsection D (Maintenance of Sight Lines) is new.*

- A. Clear Vision Triangle Required.** In zoning districts which require a front and street side setback for primary structures, all corner parcels shall provide and maintain a clear vision triangle at the intersection of the streets' right-of-way for the purpose of traffic safety.
- B. Clear Vision Triangle Defined.** The intersection clear vision triangle shall be the area formed by measuring 20 feet along two intersecting streets from the point of intersection, and diagonally connecting the ends of the two lines. See Figure 18.92-1.

FIGURE 18-92-1: VISION TRIANGLE



C. Maintenance of Sight Lines.

1. No structure, vehicle, object, or landscaping over 3 feet in height may be placed within a clear vision triangle, except as allowed by subsection 2 below.
2. Trees pruned at least 8 feet above the established grade of the curb so as to provide clear view by motor vehicle drivers are permitted within a clear vision triangle.

18.92.090 – Marijuana

Marijuana cultivation, marijuana delivery, and marijuana distribution facilities, as defined in Chapter 9.16 (Marijuana), are prohibited uses in all zoning districts in the City of Morgan Hill.

18.92.100 – Mini-Storage

A. Purpose. This section establishes standards for mini-storage facilities that apply to all mini-storage facilities where permitted by Part 2 (Zoning Districts and Overlay Zones).

B. Minimum Separation

1. A mini-storage facility established after [effective date of Zoning Code] must be located a minimum of 5,000 feet from another mini-storage facility.
2. The distance between two mini-storage facilities shall be measured as the shortest possible straight line connecting each facility's exterior property line.

B.C. Permitted Storage. Storage shall be limited to “dead storage” only. Dead storage means goods that are not radioactive, explosive, flammable or hazardous materials, that are not living plants or animals, that are not in use and not associated with any commercial use on the premises.

G.D. On-Site Supervision. All mini-storage facilities shall have adequate on-site supervision as determined by the review authority.

D.E. Controlled Access. All mini-storage facilities shall provide controlled access through the use of a security gate that is operated by a passcard system or by a manager.

E.F. Caretakers Units. Caretakers units may be allowed with the approval of a Conditional Use Permit.

F.G. Maximum Size – Individual Units. Individual storage unit may not exceed 600 square feet in area.

G.H. Outdoor Vehicle Storage. Outdoor storage of vehicles including cars, boats, motor homes, travel trailers, motorcycles, all-terrain and off-road vehicles is allowed in designated areas only. Designated areas shall be adequately screened from public view, shall be fenced and secured under lock and key.

H.I. Prohibited Activities.

1. The servicing of equipment or vehicles and the operating of power tools is prohibited.
2. The use of a mini-storage facility for flea markets, commercial storage, transfer business, auctions or sales of any type is prohibited with the exception of on-site auction of unclaimed or confiscated goods from on-site storage lockers no more than three times per year, per facility.

I.J. Vehicle Circulation.

1. The minimum distance between the entrances of drive-up storage units on opposite sides of the same drive aisle way shall be 26 feet.
2. Walk-up indoor storage units which do not open directly onto a drive aisle shall be located within 100 feet of a 26-foot wide drive aisle.
3. The minimum distance between walk-up storage buildings shall be 10 feet.
4. Vehicular access between walk-up buildings shall be prohibited except in cases where a standard 26-foot wide drive aisle is provided between buildings.

18.92.110 – Natural Resource and Hazard Setbacks

All development shall be setback from natural resources and hazards as shown in table 18.92-2.

TABLE 18.92-2: SETBACKS FROM NATURAL RESOURCES AND HAZARDS

Natural Resource/Hazard	Minimum Setback
Ridgeline	80 ft.
<u>Category 2 Stream (water present during wet season only during normal rain years)</u>	<u>35 ft. [1]</u>
<u>Category 1 Stream (water present year-round during normal rain years)</u>	<u>0-30% Slope: 100 ft. (inside USA) / 150 ft. (outside USA) [1]</u> <u>≥30% Slope: 150 ft. (inside USA) / 200 ft. (outside USA) [1]</u>
<u>Perennial or Intermittent Stream</u>	<u>50 ft.</u>
100-year Floodplain	Outside of floodplain unless the development is consistent with the limitations contained in Chapter 1 <u>5.808.428</u>

Note:

[1] See Santa Clara Valley Habitat Plan Chapter 6, Section 6.5, Condition 11.

18.92.120 – Outdoor Sales and Displays

► *Note: This section replaces existing Section 18.48.085 (Outdoor Sales and Displays).*

- A. Permitted Displays.** A single permanent outdoor display of retail goods that complies with this section is permitted as an accessory use to a primary commercial use in the mixed use, commercial, and industrial zoning districts.
- B. Permits Required.** Approval of a Zoning Clearance is required for a permanent outdoor display consistent with the standards in Subsection D (Standards).
- C. Exceptions to Standards.** The Planning Commission may allow outdoor displays that deviate from the standards in Subsection D below for with approval of a Conditional Use Permit.
- D. Standards.**
 1. **Height.** Displayed items shall not exceed 6 feet in height.
 2. **Size.** Display areas are limited to 6 feet wide or 10 percent of the width of the front building elevation. A display area may extend a maximum of 3 feet from the front building wall.
 3. **Goods Permitted.** Displayed items shall be of the same type that are lawfully displayed and sold inside the building occupied by the primary commercial use. Only the business or entity occupying the building may sell merchandise in an outdoor display area.
 4. **Hours.** Items shall be displayed only during the operating hours of the primary commercial use. Items shall be removed from display and moved into a permanently enclosed structure upon close of business.
 5. **Screening.** If outdoor display areas are proposed as part of a project subject to discretionary review and approval by the City, the review authority may require that

display areas be screened from view from neighboring properties with a solid wall, fence, or landscaped berm.

6. Design Standards.

- a. Outdoor displays shall be self-supporting, stable, and constructed to withstand wind or contact. The display shall not be permanently affixed to any object, structure or the ground including utility poles, light poles, and trees.
- b. Outdoor displays shall be continuously maintained in a state of order, security, safety and repair. The display surface shall be kept clean, neatly painted, and free of rust, corrosion, protruding tacks, nails and/or wires.

7. Location.

- a. All outdoor display area shall be located on the same parcel as the primary commercial use.
- b. Outdoor display areas may not be placed within any permanent landscaped area, required parking space, or loading area.
- c. No items may be displayed within the public right-of-way, including public sidewalks.
- d. Outdoor display areas may not be placed in a location that would cause a safety hazard, obstruct the entrance to a building, encroach upon driveways, or otherwise create hazards for pedestrian or vehicle traffic.

18.92.130 – Residential Transition Standards

A. Purpose. This section establishes increased setback, height, and landscaping standards for non-residential land uses that abut residential properties.

B. Applicability. The standards in this section apply to all properties in a mixed use, commercial, or industrial zoning district that abut a residential zoning district or land use.

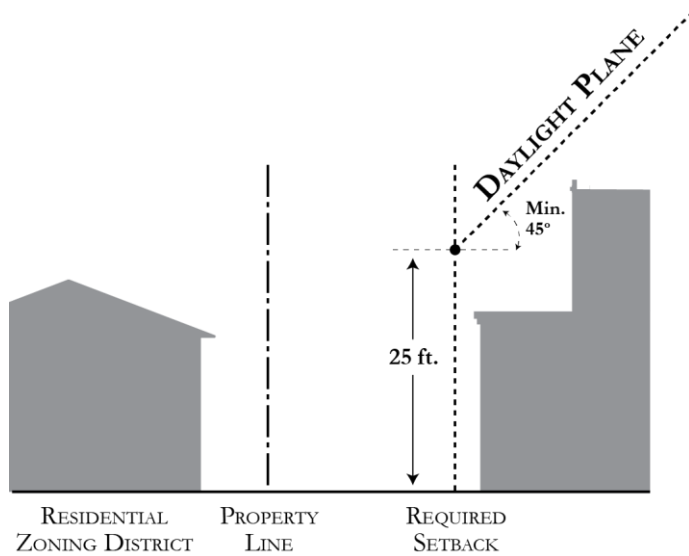
A. Standards.

1. **Setbacks.** The minimum setback from the residential property line shall be 15 feet for interior side yards, 20 feet for rear yards, and 20 feet for any property line abutting a residential rear yard.
2. **Daylight Plane.** No structure shall extend above or beyond a daylight plane having a height of 25 feet at the minimum required setback from the residential property line and extending into the parcel at an angle of 45 degrees. See Figure 18.92-2.
3. **Landscaping.** A landscaped planting area, extending a minimum of 10 feet from the property line, shall be provided along all residential property lines. A tree screen shall be planted in this area with trees planted at a maximum interval of 15 feet.

The Planning Commission may allow a greater interval distance for tree species that will provide an adequate buffer and visual screen at maturity.

4. **Loading.** Loading and unloading shall be designed to have the least amount of impact on neighboring residential uses. When feasible, loading and unloading provided from the commercial frontage rather than from areas adjacent residential uses.

FIGURE 18.90-2: RESIDENTIAL TRANSITIONS – DAYLIGHT PLANE



18.92.140 – Rooftop Solar Energy Systems

► *Note: This section is new as required by state law.*

- A. **Required Permits.** Rooftop solar energy systems are a permitted use in all zoning districts. No permit or approval other than a building permit is required.
- B. **Height Exceptions.** Rooftop solar energy systems may project up to four feet above the maximum permitted structure height in the applicable zoning district.
- C. **Building Permit Review and Approval – Rooftop Systems.** Building permit applications for rooftop solar energy systems shall be reviewed and approved in compliance with Government Code Section 65850.5. Applications shall be submitted using the City's standard building permit application form.

18.92.150 – Temporary Uses and Structures

-
- *Note: This section makes the following changes to existing Article II (Temporary Use Permits) of Chapter 18.54: allows outdoor fundraising events and construction trailers by-right instead of with a TUP; identifies garage sales, storage containers as temporary uses allowed by right; allows construction trailers for 18 months, rather than 12 months with 6 months CDD extension.*
-

A. Purpose. This section establishes requirements for the establishment and operation of temporary uses and structures. These requirements allow for temporary uses and structures in Morgan Hill while limiting impacts on neighboring properties and the general public.

B. Temporary Uses Allowed By-Right. The following temporary uses are permitted by right. No permits or approvals from the ~~Community Development~~Development Services Department are required.

1. **Garage Sales.** Garage sales for individual residences limited to three, one- to two-day events per calendar year. One block or neighborhood sale per calendar year is allowed in addition to individual sales.
2. **Storage Containers.** Storage containers delivered to a home, loaded by residents, and delivered to another location, for a maximum of two weeks on private property. Storage containers on a residential property for more than two weeks may be approved by the Community Development Director with a Temporary Use Permit.
3. **Outdoor Fund Raising Events.** Outdoor fund raising events on commercial sites when sponsored by a non-profit organization directly engaged in civic or charitable efforts. Outdoor fund raising events with property owner permission are limited to two days each month for each sponsoring organization.
4. **Construction Trailers.** A trailer or modular unit on an active construction site in a non-residential zone limited to an 18-month period, subject to the following requirements:
 - a. The trailer or modular unit may be used for security personnel, storage, office, residence of the property owner, or other similar temporary use.
 - b. The trailer or modular unit may be installed only after issuance of a Building Permit.
 - c. Trailers or modular units may not exceed a maximum size of 650 square feet and shall be placed on the site in compliance with the setback requirements of the applicable zone.

C. Temporary Uses Requiring a Temporary Use Permit. A Temporary Use Permit is required for the following temporary uses.

1. **Parking Lot/Sidewalk Sales.** Parking lot/sidewalk sales limited to seven days in any 180-day period, subject to the following requirements:

- a. The business or entity conducting a parking lot/sidewalk sale shall obtain a Morgan Hill business license at least 14 days prior to the start of the sale.
 - b. Prior to issuance of a Temporary Use Permit, an application for a temporary seller's permit shall be filed with the State of California Board of Equalization stating that the sales will occur in Morgan Hill.
 - c. Prior to issuance of a Temporary Use Permit, the applicant shall provide a cash deposit to the ~~Community Development~~ Development Services Department in an amount necessary to ensure the parking lot is returned to a clean and debris-free state.
2. **Arts and Crafts Shows.** Arts and Crafts shows limited to seven days within any 180-day period
3. **Holiday Sales.** Holiday sales (e.g., Christmas trees, pumpkins) for a maximum of 45 calendar days, no more than four times per year on a single property. Seasonal sales are prohibited on residentially zoned property.
4. **Seasonal Sale of Agricultural Goods.** Seasonal sale of agricultural goods limited to 90 days per calendar year, not to exceed 30 consecutive days.
5. **Traveling Amusements.** Traveling amusements (e.g., carnivals, rodeos) limited to 15 consecutive days or three weekends in any 180-day period, subject to the following requirements:
 - a. Traveling amusement uses shall be setback a minimum of 100 feet from any residential zone or use.
 - b. Rest room facilities shall be provided.
 - c. All lighting shall be directed away from adjacent properties and public rights-of-way.
 - d. Noise attenuation for generators and carnival rides shall be provided to the satisfaction of the Community Development Director.
6. **Sales or Leasing Offices.** Leasing offices for commercial and industrial projects for a two-year period or thirty days after the final sale or lease, whichever comes first, subject to the following requirements:
 - a. The sales or leasing office shall be located in a trailer or tenant space. The sales or leasing office may be used only for sales or leasing activities for the project where the office is located. All other uses are prohibited.
 - b. Street improvements and temporary off-street parking at a rate of four spaces per office shall be installed prior to the start of sales or leasing activities.
 - c. A cash deposit of \$1,000 shall be posted for sales or leasing offices. The office and all related improvements shall be removed within 30 days of the final sale or lease.

- d. Flags or banners in conjunction with the sales or leasing office are prohibited.
 - 7. **Promotional Sales.** Promotional sales and retail sales of items not typically sold from premises limited to 24 days per calendar year. Such uses must locate upon developed commercial property with approval of property owner.
 - 8. **Other Similar Activities.** Similar temporary activities determined by the Community Development Director to be compatible with the applicable zoning district and surrounding uses.
- D. Conditions of Approval.** The Community Development Director shall attach conditions of approval to a Temporary Use Permit in accordance with Section 18.108.G (Conditions of Approval) to ensure compatibility of the temporary use with neighboring uses and development.
- E. Temporary Signage.** Signs associated with a temporary use shall comply with Section 18.88.120 (Temporary Signs).
- F. Events on Public Property.** Temporary uses and events on public property shall conform to Chapter 12.16 (Events on Public Property).

18.92.160 – Retaining Existing Vegetation

In all zoning districts, existing natural vegetation shall be retained and protected to the maximum extent feasible as part of any development project.

Chapter 18.96 – WIRELESS COMMUNICATIONS FACILITIES

Sections:

- 18.96.010 – Purpose and Legislative Intent
- 18.96.020 – Definitions
- 18.96.030 – Applicability and Exemptions
- 18.96.040 – Required Permits
- 18.96.050 – Application Submittal and Review; Post-Approval Permit Requirements
- 18.96.060 – Section 6409(a) Modifications
- 18.96.070 – Preferred Siting and Location
- 18.96.080 – Development Standards
- 18.96.090 – Operation and Maintenance Requirements
- 18.96.100 – Limited Waivers
- 18.96.110 – Severability

► *Note: This chapter is new.*

18.96.010 – Purpose and Legislative Intent

- A. Purpose.** This chapter establishes standards for the installation, modification, and operation of wireless communications facilities. These standards aim to protect public health, safety, and welfare while balancing the benefits of robust wireless services with the unique community character, aesthetics and local values of Morgan Hill.
- B. Legislative Intent.** This chapter does not intend to, and shall not be interpreted or applied to:
1. Prohibit or effectively prohibit personal wireless services;
 2. Unreasonably discriminate among providers of functionally equivalent personal wireless services;
 3. Regulate the installation, operation, collocation, modification or removal of wireless facilities on the basis of the environmental effects of radio frequency (RF) emissions to the extent that such emissions comply with all applicable Federal Communications Commission (FCC) regulations;
 4. Prohibit or effectively prohibit any collocation or modification that the City may not deny under state or federal law; or
 5. Preempt any applicable state or federal law.

18.96.020 – Definitions

A. Terms Defined. Terms used in this chapter are defined as follows:

1. “Amateur ~~r~~Radio ~~F~~acilities” are antennas and related equipment for the purpose of self-training, intercommunication, or technical investigations carried out by an amateur radio operator who operates without commercial interest, and who holds a written authorization from the Federal Communications Commission to operate an amateur radio facility.
2. “Antenna” means a device or system of wires, poles, rods, dishes, discs, or similar devices used to transmit and/or receive radio or electromagnetic waves. ~~Examples include panel antennas, directional antennas, microwave dishes and whip (omni-directional) antennas.~~
3. “Applicable FCC decisions” means the same as defined by California Government Code Section 65964.1(d)(1), as may be amended, which defines that term as “In re Petition for Declaratory Ruling, 24 FCC Rcd. 13994 (2009) and whip (omni-directional) antennas. In the Matter of Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, Report and Order, 29 FCC Rcd. 12865 (2014).”
- ~~3.4.~~ “Array” means one or more antennas mounted at approximately the same level above ground on tower or base station.
- ~~4.5.~~ “Base station” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(1), as may be amended, which defines that term as a structure or equipment that enables wireless communications between user equipment and a communications network. Examples include wireless facilities mounted on a building or façade, ground-mounted equipment, facilities mounted to a utility pole or light standard, radio transceivers, antennas, coaxial or fiber-optic cable, power supplies, and comparable equipment regardless of technological configuration (including Distributed Antenna Systems (DAS) and small-cell networks). The term does not include “towers” or tower-mounted equipment as defined below.
- ~~5.6.~~ “Collocation” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(2), as may be amended, which defines that term as “[t]he mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.” As an illustration and not a limitation, the FCC’s definition effectively means “to add” new equipment to an existing facility and does not necessarily refer to more than one wireless facility installed at a single site.
- ~~6.7.~~ “Distributed Antenna System” or “DAS” means a network of one or more antennas and related fiber optic nodes typically mounted to or located on streetlight poles, utility poles, sporting venues, arenas or convention centers which provide access and signal transfer for wireless service providers. A distributed antenna system also includes the equipment location, sometimes called a “hub” or “hotel”

where the DAS network is interconnected with one or more wireless service provider's facilities to provide the signal transfer services.

8. "Eligible facilities request." See Section 18.96.060.B (Eligible Facilities Request Defined).
9. "Eligible support structure" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)4), as may be amended, which defines that term as "[a]ny tower or base station as defined in [47 C.F.R. Section 1.40001], provided that it is existing at the time the relevant application is filed with the State or local government under [47 C.F.R. Section 1.40001]."
10. "Existing" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(5), as may be amended, which provides that "[a] constructed tower or base station is existing for purposes of the [FCC rules implementing Section 6409 of the Spectrum Act] if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition."
11. "FCC" means the Federal Communications Commission or its successor agency.
12. "Personal wireless services" has the same meaning as provided in 47 U.S.C. Section 332(c)(7)(C)(i), as may be amended, which defines the term as "commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services."
- ~~7.13.~~ "Facility" means a "wireless communication facility" as defined in this chapter.
14. "Micro wireless facility" means a wireless communication facility that is no larger than 24 inches in length, 15 inches in width, 12 inches in height, and that has an exterior antenna, if any, no longer than 11 inches.
- ~~8.15.~~ "Monopole" means a single freestanding non-lattice, tubular tower that is not camouflaged and that is used to act as or support an antenna or antenna arrays.
- ~~9.16.~~ "Radio Frequency (RF) Emissions(RFR)" means electromagnetic radiation in the portion of the spectrum from 3 kilohertz to 300 gigahertz.
- ~~10. "Over the Air Reception Devices" or "OTARD" means an antenna used to receive direct broadcast satellite service, receive direct-to-home satellite, receive or transmit fixed wireless signals via satellite (one meter or less in diameter), receive video programming services or television broadcast signals via multipoint distribution services, or receive or transmit fixed wireless signals.~~
- ~~11.17.~~ "Section 6409(a)" means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. Section 1455(a), as may be amended.

- ~~12.~~18. “Section 6409(a) Modification” means any eligible facilities request that does not cause a substantial change and submitted for approval pursuant to Section 6409(a) and the FCC’s regulations at 47 C.F.R. § 1.40001 et seq.
19. “Service provider” means a wireless communications provider, company or organization, or the agent of a company or organization that provides wireless communications services.
20. “Significant gap” is a gap in the service provider’s own wireless telecommunications facilities, as defined in federal case law interpretations of the Federal Telecommunications Act of 1996.
21. “Site” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(6), as may be amended, which provides that “[f]or towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible facilities request that does not cause support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.”
22. “Substantial change.” See Section 18.96.060.C (Substantial Change Defined).
- ~~13.~~23. “Tower” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(9), as may be amended, which defines that term as “[a]ny structure built for the sole or primary purpose of supporting antennas that receive and/or transit radio frequency signals, including any [FCC]-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.” Examples include, but are not limited to, monopoles, mono-trees, and lattice towers.
~~a structure built for the sole or primary purpose of supporting antennas that receive and/or transit radio frequency signals, including monopoles, mono-trees and lattice towers.~~
24. “Transmission equipment” means equipment the same as defined by the FCC in 47 C.F.R. Section 140001(b)(8), as may be amended, which defines that term as “[e]quipment that facilitates transmission for any [FCC]-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.”
- ~~14. means equipment that facilitates transmission wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply.~~

~~15.25.~~ “Wireless” means any FCC-licensed or authorized wireless communication service transmitted over frequencies in the electromagnetic spectrum.

~~16.26.~~ “Wireless Telecommunications Facility” is a facility supporting antennas that sends and/or receives radio frequency signals; AM/FM, microwave, and/or electromagnetic waves for the purpose of providing voice, data, images or other information, including, but not limited to, cellular and/or digital telephone service, personal communications services, and paging services. Wireless telecommunications communications facilities include antennas and all other types of equipment for the transmission or receipt of such signals; telecommunication towers or similar structures built to support such equipment; equipment cabinets, base transceiver stations, and other accessory development; and screening and concealment elements. (Also referred to as “facility” and “wireless facility”). ~~facility supporting antennas that sends and/or receives radio frequency signals. Wireless telecommunications facilities include antennas and all other types of equipment for the transmission or receipt of such signals; telecommunication towers or similar structures built to support such equipment; equipment cabinets, base transceiver stations, and other accessory development.~~

27. “Wireless communications provider” is any company or organization that provides or who represents a company or organization that provides wireless communications services. (Also referred to as “service provider”).

B. Terms Not Defined. Terms not defined in this section shall be interpreted so as to give this chapter its most reasonable meaning and application.

18.96.030 – Applicability and Exemptions

A. Applicability. This chapter applies to all new and modified wireless communication facilities unless exempted by Subsection B below.

B. Exemptions. This chapter does not apply to:

1. Amateur radio facilities;
2. Direct-to-home satellite dishes, TV antennas, wireless cable antennas, and other antennas covered by the Over-the-Air Reception Devices (OTARD) rule in 47 Code of Federal Regulations (C.F.R.) Section 1.4000 *et seq.*;
3. Non-commercial wireless communications facilities owned and operated by a public agency; and
4. All antennas and wireless facilities identified by the FCC or the California Public Utilities Commission (CPUC) as exempt from local regulations.

18.96.040 – Required Permits

A. Conditional Use Permit. Planning Commission approval of a Conditional Use Permit is required for all new facilities and modifications or collocation to existing facilities,

except for facilities requiring an Administrative Use Permit or a Section 6409(a) Permit as identified below.

B. Administrative Use Permit. Community Development Director approval of an Administrative Use Permit is required for the following facilities:

1. A collocation to an existing facility that is not eligible for a Section 6409(a) permit.
- ~~1.2. A modification to an eligible support structure that is not eligible for a Section 6409(a) permit.~~
- ~~2.3.~~ Building- and facade-mounted facilities in a non-residential zoning district where the facility is completely concealed from public view and architecturally integrated into the existing support structure.
4. Pole-mounted facilities in the public right-of-way consistent with Section 18.96.080.D (Rights-of-Way Facilities).
- ~~3.5. A micro wireless facility in a non-residential zoning district, including within the public right-of-way.~~

C. Section 6409(a) Permit. Modifications to an existing facility that do not result in a substantial change as defined by FCC regulations may be eligible for a Section 6409(a) permit. See Section 18.96.060 (Section 6409(a) Modifications).

18.96.050 – Application Submittal and Review; Post-Approval Permit Requirements

A. Application – General. An application for a proposed wireless communication~~s~~ facility shall be filed and reviewed in compliance with Chapter 18.104 (Common Permit Requirements) unless otherwise specified in this chapter.

B. Application Contents. The application shall include the information required by the ~~Community Development~~Development Services Department with all required application fees. The project applicant may be required to submit some or all of the following information, depending on the scope of the proposed project and as determined by the ~~Community Development~~Development Services Department.

1. **Statement of Purpose.** A written statement that includes:
 - a. A description of the technical objectives to be achieved;
 - b. An annotated topographical map that identifies the targeted service area to be benefitted;
 - c. The estimated number of potentially affected users in the targeted service area; and
 - d. A full-color signal propagation maps with objective units of signal strength measurement that show the applicant's current service coverage levels from all adjacent sites without the proposed site, predicted service coverage levels from all adjacent sites with the proposed site, and predicted service coverage levels from the proposed site without all adjacent sites.

- e. A description of how the design may promote shared use by different carriers, if applicable.
 - f. A description of how the design may consolidate future planned facilities, if applicable.
2. **Site Development Plans.** A fully dimensioned site plan and elevation drawings prepared by a California-licensed engineer or architect showing any existing wireless facilities with all existing transmission equipment and other improvements, the proposed facility with all proposed transmission equipment and other improvements, and the legal boundaries of the leased or owned area surrounding the proposed facility and any associated access or utility easements.
 3. **Required Licenses or Approvals.** Evidence that the applicant has all current licenses and registrations from the FCC, the California Public Utilities Commission (CPUC), and any other applicable regulatory bodies where such licenses or registrations are necessary to provide wireless communication services utilizing the proposed facility.
 4. **Photo Simulations.** Photo simulations that show the proposed facility in context of the site from reasonable line-of-sight locations from public streets or other adjacent public viewpoints, together with a map that shows the photo location of each view angle.
 5. **Alternative Sites Analysis.**
 - a. The applicant must provide a list of all existing structures considered as alternatives to the proposed location, together with a general description of the site design considered at each location.
 - b. The applicant must also provide a written explanation for why the alternatives considered were unacceptable or infeasible, unavailable or not as consistent with the development standards in this chapter as the proposed location. This explanation must include a meaningful comparative analysis and such technical information and other factual justification as are necessary to document the reasons why each alternative is unacceptable, infeasible, unavailable or not as consistent with the development standards in this chapter as the proposed location.
 - c. If an existing facility is listed among the alternatives, the applicant must specifically address why the modification of such wireless communication facility is not a viable option. When an applicant proposes a site in the public right-of-way, the initial alternative sites analysis required for a complete application may evaluate other potential locations within the right-of-way.
 6. **RF Exposure Compliance Report.** A radio frequency (RF) report acceptable to the City prepared and certified by an RF engineer that certifies that the proposed facility, as well as any collocated facilities, will comply with applicable federal RF exposure standards and exposure limits.
 7. **Noise Study.** A noise study prepared and certified by an engineer for the proposed facility and all associated equipment including all environmental control units, sump pumps, temporary backup power generators, and permanent backup

power generators demonstrating compliance with the City's noise regulations.

8. **Deposit for Third Party Review.** A cash deposit for third party peer review determined by the Community Development Director to be necessary to ensure compliance with the requirements of this chapter.
9. **Additional Information.** Additional information determined by the ~~Community Development~~Development Services Department as necessary for processing the application for the proposed facility.

C. Application Processing Time. The application processing time for applications subject to this chapter shall be in conformance with the time periods and procedures established by applicable FCC decisions, adjusted for any tolling due to incomplete application notices or mutually agreed upon extensions of time.

C.D. Public Notice and Hearing.

1. **Conditional Use Permit.** The Planning Commission shall review and act on a Conditional Use Permit for a proposed facility at a noticed public hearing in compliance with Chapter 18.104 (Common Permit Requirements).
2. **Administrative Use Permit.** Public notice of a pending action on an Administrative Use Permit application shall be provided in compliance with Section 18.104.090 (Notice of Pending Action). The Community Development Director shall hold a public hearing for an Administrative Use Permit application only upon receiving a written request for a public hearing as provided in Section 18.104.090.

D.E. Basis for Approval. To approve a Conditional Use Permit or Administrative Use Permit for a proposed facility, the review authority must find that:

1. The facility is consistent with the requirements of this chapter;
- ~~1-2.~~ The facility is sited and located in the most preferred manner possible, as described in Section 18.96.070 (Preferred Siting and Location), while meeting the applicant's wireless service objectives; and
- ~~2-3.~~ All the findings required for the Conditional Use or Administrative Use Permit as specified in Chapter 18.108 (Specific Permit Requirements) can be made for the proposed facility.

E.F. Appeals.

1. Community Development Director decisions on an Administrative Use Permit may be appealed to the Planning Commission in accordance with Section 18.112 (Appeals).
2. Planning Commission decisions on a Conditional Use Permit may be appealed to the Planning Commission in accordance with Section 18.112 (Appeals).

F.G. Length of Approval.

1. All approvals for wireless communication facilities are valid for an initial maximum period of ten years.

2. An approval may be extended by the Community Development Director from the initial approval date for a subsequent five years and may be extended by the Director every five years thereafter upon the verification of the wireless communications provider's continued compliance with this chapter and with the findings and conditions of approval under which the application was originally approved.

G.H. Permit Revocation.

1. **Basis for Revocation.** A permit granted under this chapter may be revoked for noncompliance with any enforceable permit, permit condition or law applicable to the facility.
2. **Revocation Procedures.**
 - a. When the Community Development Director finds reason to believe that grounds for permit revocation exist, the Director shall send written notice to the permit holder that states the nature of the violation and a means to correct the violation. The permit holder shall have a reasonable time from the date of the notice to correct the violation or show that the violation has not occurred.
 - b. If the permit holder does not correct the violation or show that the violation has not occurred, the Planning Commission shall conduct a noticed public hearing to consider whether to revoke the permit. The Planning Commission may revoke the permit upon findings that the permit holder has not complied with any enforceable permit, permit condition or law applicable to the facility.
 - c. The Planning Commission's decision may be appealed to the City Council in accordance with Chapter 18.112 (Appeals).

H.I. Cessation of Operations - New Permit Required. A new permit shall be required if a site is to be used again for the same purpose as permitted under the original permit if a consecutive period of 6 months have lapsed since cessation of operations.

I.J. Transfer of Ownership. In the event that the original permit holder sells its interest in a wireless communication facility, the succeeding carrier shall assume all project responsibilities and shall be held responsible for maintaining consistency with all permit requirements and conditions of approval.

18.96.060 – Section 6409(a) Modifications

- A. Purpose.** This section describes the process and requirements for the approval of an “eligible facilities request” that does not cause a “substantial change” to an existing facility as defined by FCC regulations.
- B. Eligible Facilities Request Defined.** “Eligible facilities request” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(3), as may be amended, which defines that term as a request for modification of an existing tower or base station that

does not substantially change the physical dimensions of the tower or base station, involving

1. Collocation of new transmission equipment;
2. Removal of transmission equipment; or
3. Replacement of transmission equipment.

C. Substantial Change Defined. “Substantial change” means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(7), as may be amended, defined according to the facility type and location as follows:

1. **Towers Outside the Public Right-of-Way.** For towers outside the public right-of-way, a substantial change occurs when:
 - a. The proposed collocation or modification increases the overall height more than 10 percent or the height of one additional antenna array not to exceed 20 feet (whichever is greater); or
 - b. The proposed collocation or modification increases the width more than 20 feet from the edge of the wireless tower or the width of the wireless tower at the level of the appurtenance (whichever is greater); or
 - c. The proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four; or
 - d. The proposed collocation or modification involves excavation outside the current boundaries of the leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site.
2. **Towers in the Public Right-of-Way and Base Stations.** For towers in the public rights-of-way and for all base stations, a substantial change occurs when:
 - a. The proposed collocation or modification increases the overall height more than 10 percent or 10 feet (whichever is greater); or
 - b. The proposed collocation or modification increases the width more than 6 feet from the edge of the wireless tower or base station; or
 - c. The proposed collocation or modification involves the installation of any new equipment cabinets on the ground when there are no existing ground-mounted equipment cabinets; or
 - d. The proposed collocation or modification involves the installation of any new ground-mounted equipment cabinets that are ten percent (10 percent) larger in height or volume than any existing ground-mounted equipment cabinets; or
 - e. The proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.

3. **All Towers and Base Stations.** In addition, for all towers and base stations wherever located, a substantial change occurs when:
 - a. The proposed collocation or modification would defeat the existing concealment elements of the support structure as determined by the Community Development Director; or
 - b. The proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, equipment cabinets or excavation that is inconsistent with the thresholds for a substantial change described in this section.
4. **Interpretation of Thresholds.**
 - a. The thresholds for a substantial change described above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur.
 - b. The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the originally-permitted support structure without regard to any increases in size due to wireless equipment not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012—the date that Congress passed Section 6409(a).

D. Permit Required. Approval of an eligible facilities request as defined above requires Community Development Director approval of a Section 6409(a) Permit.

E. Applications. Applications for a Section 6409(a) Permit shall contain all information and materials specified in Section 18.96.050.B (Application Contents) except as follows:

1. ~~that~~ Section 6409(a) Permit applications are not required to include a Statement of Purpose (Section 18.96.050.B.1) or an Alternative Sites Analysis (Section 18.96.050.B.5).
2. The application must include a detailed explanation as to why the applicant believes that the application qualifies as an eligible facilities request subject to a Section 6409(a) Permit.
3. For applications involving a collocation or modification to an eligible support structure, the application must be accompanied by all prior approvals for the existing facility (including but not limited to all conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment), as well as all permit applications with required application materials for each separate permit required by the City for the proposed facility, including but not limited to a building permit and an encroachment permit (if applicable).

E.F. Public Notice. Before the Community Development Director may approve a Section 6409(a) Permit application, notice of the application shall be posted on site at least ten calendar days prior to the City taking action on the application and shall contain the following information:

1. A general explanation of the proposed modification or collocation;
2. A general description of the location of the real property that is the subject of the application; and
3. The following statement: “Federal law may require approval of this application pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. Section 1455(a).”

F.G. Basis for Approval.

1. This subsection shall be interpreted and applied so as to be consistent with the Telecommunications Act of 1996, Section 6409(a), and the applicable FCC and court decisions and determinations relating to the same. In the event that a court of competent jurisdiction invalidates all or any portion of Section 6409(a) or a FCC rule or regulation that interprets Section 6409(a), such that federal law would not mandate approval for any eligible facilities request, then all proposed modifications to existing facilities subject to this section must be approved by an Administrative Use Permit, or Conditional Use Permit, as applicable, and subject to the discretion of the Community Development Director.

1.2. The Community Development Director shall approve a Section 6409(a) Permit upon finding that the proposed collocation or modification qualifies as an eligible facilities request and does not cause a substantial change as defined above.

2.3. In addition to any other alternative recourse permitted under federal law, the Community Development Director may deny a Section 6409(a) Permit upon finding that the proposed collocation or modification:

- a. Violates any legally enforceable standard or permit condition reasonably related to public health and safety;
- b. Involves a structure constructed or modified without all regulatory approvals required at the time of the construction or modification;
- c. Involves the replacement of the entire support structure; or
- d. Does not qualify for mandatory approval under Section 6409(a) for any lawful reason.

3.4. A denial of a Section 6409(a) Permit application shall be without prejudice to the applicant, the real property owner, or the project. Subject to the application and submittal requirements in this chapter, the applicant may immediately resubmit a permit application for either a Conditional Use Permit, Administrative Use Permit, or Section 6409(a) Permit as appropriate.

~~G.H.~~ Appeals. Community Development Director decisions on a Section 6409(a) Permit are final and may not be appealed ~~to the Planning Commission in accordance with Section 18.112 (Appeals).~~

~~H.I.~~ No Permit Term Extension.

1. The approval of a Section 6409(a) Permit constitutes a federally-mandated modification to the underlying permit or approval for the subject tower or base station.
2. A Section 6409(a) Permit does not extend the permit term for any Conditional Use Permit, Administrative Use Permit, or other underlying regulatory approval and its term shall be coterminous with the underlying permit for the subject tower or base station.

~~J.~~ Applicant Notifications for Deemed Granted Remedies.

1. Under state and/or federal law, the City's failure to act on a wireless communications facility permit application within a reasonable period of time in accordance with the time periods and procedures established by applicable FCC decisions, accounting for tolling, may result in the permit being deemed granted by operation of law.
2. To the extent federal or state law provides a "deemed granted" remedy for wireless communications facility applications not timely acted upon by the City, no such application shall be deemed granted unless and until the applicant satisfies the following requirements:
 - a. Submits a complete application package consistent with the application procedures specified in this chapter and applicable federal and state laws and regulations.
 - b. Following the date by which the City must take final action on the application (as determined in accordance with the time periods and procedures established by applicable FCC decisions and accounting for tolling), the applicant must provide notice to the City that the application is deemed granted by operation of law—.

~~I.K.~~ Accelerated Permit Terms Due to Invalidation.

1. In the event that any court of competent jurisdiction invalidates any portion of Section 6409(a) or any FCC rule that interprets Section 6409(a) such that federal law would not mandate approval for any Section 6409(a) Permit, the permit or permits issued in connection with such 6409(a) Modification(s) shall automatically expire one year from the effective date of the judicial order.
2. A permit holder is not required to remove its improvements approved under the invalidated Section 6409(a) Permit if the permit holder submits an application for a Conditional Use Permit or Administrative Use Permit for those improvements before the one-year period ends.

~~J.L.~~ No Waiver of Standing. The approval of a Section 6409(a) Permit shall not be construed to waive any standing by the City to challenge Section 6409(a), any FCC rules that interpret Section 6409(a) or any Section 6409(a) Modification.

18.96.070 – Preferred Siting and Location

The following siting and location preferences apply to all proposed new facilities and substantial changes to existing facilities.—. The Community Development Director may require the applicant to submit an alternative sites analysis and evidence to demonstrate that a proposed facility could not be feasibly installed in a preferred site or location.

A. Preferred Siting. To the extent possible, all proposed facilities should be sited according to the following preferences, ordered from most preferred to least preferred:

1. Collocations on existing base stations outside the rights-of-way; then
2. Collocations on eligible support structures in the rights-of-way; then
3. Collocations on towers outside the rights-of-way; then
4. New building-mounted facilities outside the rights-of-way; then
5. New eligible support structures in the rights-of-way; then
6. New towers outside the rights-of-way.

B. Preferred Locations - General. All applicants should, to the extent possible, propose new facilities and substantial changes to existing facilities in non-residential zones.

C. Preferred Locations – Non-Residential Zones. To the extent possible, all proposed facilities in non-residential zones should be located according to the following preferences, ordered from most preferred to least preferred:

1. City owned or controlled parcels; then
2. Parcels in the public facilities (PF) zone; then
3. Parcels in the industrial (~~CI, IO, IC, IL, IGH, IG, IC, IO~~) zones; then
4. Parcels in the commercial (CN, CG, CH, CS) zones;
5. Parcels in the sports recreation leisure (SRL) zone.
6. Parcels in the mixed use (MU-D, MU-N, MU-F) zones.

D. Preferred Locations –Residential and Open Space Zones. If a facility is proposed in a residential (RE, RDL, RDH, RAL, RAM, RAH~~R-1, R-2, R-3, R-4~~), a residential Planned Development, or open space (OS) zone, all facilities should be located according to the following preferences, ordered from most preferred to least preferred:

1. In the public right-of-way abutting a residential zone; then
2. City owned or controlled parcels; then
3. Parcels that contain non-residential uses and do not contain residential uses; then

4. Parcels that contain non-residential conditional uses and do contain residential uses; then
5. Parcels that do not contain single-family homes; then
6. All other parcels.

18.96.080 – Development Standards

A. General Design Standards. All facilities must conform to the following design standards.

1. **Concealment.** All new facilities and substantial changes to existing facilities must incorporate concealment measures and/or techniques appropriate for the proposed location and design. All ground-mounted equipment on private property must be completely concealed to the extent feasible according to the following preferences, ordered from most preferred to least preferred:
 - a. Within an existing structure including, but not limited to, an interior equipment room, mechanical penthouse or dumpster corral; then
 - b. Within a new structure designed to integrate with or mimic the adjacent existing structure; then
 - c. Within an underground equipment vault if no other feasible above-ground design that complies with subsections (a) or (b) exists.
2. **Height.**
 - a. All new facilities and substantial changes to existing facilities must not exceed the height limit in the applicable zone except as allowed in Paragraph b below.
 - b. The review authority may approve a height exception up to 8 feet above the height limit when a proposed facility is (1) mounted on the rooftop of an existing building; (2) completely concealed; and (3) architecturally integrated into the underlying building. This exception does not apply to any towers or utility poles.
3. **Setbacks.** All facilities must comply with all setback requirements in the applicable zone.
4. **Collocation.** Applicants shall design their facilities to accommodate future collocated facilities to the extent feasible.
5. **Landscaping.** In addition to any landscaping required by the City for concealment or screening purposes, the applicant shall install and maintain additional landscaping to replace any existing landscaping displaced during the construction or installation of the facility.
6. **Backup or Standby Power Sources and Generators.** The City may not approve any fossil fuel-powered backup power sources or generators unless the applicant

demonstrates that the facility cannot feasibly achieve its power needs with batteries, fuel cells or other similarly non-polluting, low noise-level means.

7. **Lights.**

- a. Unless otherwise required under FAA or FCC regulations, applicants may install only timed or motion-sensitive light controllers and lights, and must install such lights so as to avoid illumination impacts to adjacent properties to the maximum extent feasible. The City may exempt an applicant from this requirement when the applicant demonstrates a substantial public safety need.
- b. All aircraft warning lighting must use lighting enclosures that avoid illumination impacts to properties in the City to the maximum extent feasible.

8. **Noise.** All transmission equipment and other equipment (including without limitation air conditioners and sump pumps) associated with the facility must not emit sound that exceeds the applicable limit established in Municipal Code Chapter 8.28 (Noise).

9. **Signage.**

- a. A facility may not display any signage or advertisements unless expressly allowed by the City in a written approval, recommended under FCC regulations or required by law or permit condition.
 - b. Every facility shall at all times display signage that accurately identifies the facility owner and provides the facility owner's unique site number, and also provides a local or toll-free telephone number to contact the facility owner's operations center.
10. **Code Compliance.** A permit holder shall design and maintain all facilities in compliance with all applicable federal, state and local laws, codes, regulations, ordinances or other rules.

B. Tower-Mounted Facilities.

1. **General Design Preferences.** To the extent feasible and appropriate for the proposed location, all new towers applications should be designed according to the following preferences, ordered from most preferred to least preferred:
 - a. Faux architectural features (examples include, but are not limited to, bell towers, clock towers, lighthouses, obelisks and water tanks); then
 - b. Faux trees; then
 - c. Monopoles that do not conceal the antennas within a concealment device.
2. **Tower-mounted Equipment.** All tower-mounted equipment shall be mounted as close to the vertical support structure as possible to reduce its visual profile. Applicants should mount non-antenna, tower-mounted equipment (including, but not limited to, remote radio units/heads, surge suppressors, and utility demarcation boxes) directly behind the antennas to the maximum extent feasible.

3. **Ground-mounted Equipment.** Ground-mounted equipment shall be concealed with opaque fences or other opaque enclosures. The City may require, as a condition of approval, design and/or landscape features in addition to other concealment when necessary to blend the equipment or enclosure into the surrounding environment.
4. **Concealment Standards for Faux Trees.** All faux tree facilities shall comply with the following standards:
 - a. The canopy shall completely envelop all tower-mounted equipment and extend beyond the tower-mounted equipment at least 18 inches.
 - b. The canopy shall be naturally tapered to mimic the particular tree species.
 - c. All tower-mounted equipment, including antennas, equipment cabinets, cables, mounts and brackets, shall be painted flat natural colors to mimic the particular tree species.
 - d. All antennas and other tower-mounted equipment cabinets shall be covered with broadleaf or pine needle “socks” to blend in with the faux foliage.
 - e. The entire vertical structure shall be covered with permanently-affixed three-dimensional faux bark cladding to mimic the particular tree species.

C. Building and Facade Mounted Facilities.

1. **General Design Preferences.** To the extent feasible and appropriate for the proposed location, all new building and facade mounted facilities should be designed according to the following preferences, ordered from most preferred to least preferred:
 - a. Completely concealed and architecturally integrated facade or rooftop mounted base stations which are not visible from any publicly accessible areas at ground level (examples include, but are not limited to, antennas behind existing parapet walls or facades replaced with RF-transparent material and finished to mimic the replaced materials); then
 - b. Completely concealed new structures or appurtenances designed to mimic the support structure’s original architecture and proportions (examples include, but are not limited to, cupolas, steeples, chimneys and water tanks); then
 - c. Facade-mounted facilities incorporated into “pop-out” screen boxes designed to be architecturally consistent with the original support structure; then
 - d. Exposed facade-mounted and rooftop antennas.
2. **Ground-mounted Equipment.** Outdoor ground-mounted equipment associated with base stations must be avoided whenever feasible. In locations visible or accessible to the public, outdoor ground-mounted equipment shall be concealed with opaque fences or landscape features that mimic the adjacent structures (including, but not limited to, dumpster corrals and other accessory structures).

D. Rights-of-Way Facilities.

1. **Concealment.** All facilities in the public right-of-way shall be concealed to the extent feasible with design elements and techniques that blend with the underlying support structure, surrounding environment and adjacent uses.
2. **Undergrounded Equipment.** To conceal the non-antenna equipment, all non-antenna equipment shall be installed underground to the extent feasible. Additional expense to install and maintain an underground equipment enclosure shall not exempt applicants from this requirement, except where an applicant demonstrates by clear and convincing evidence that this requirement will effectively prohibit the provision of personal wireless services.
3. **Ground-mounted Equipment.** Ground-mounted equipment shall be installed in a location that does not obstruct pedestrian or vehicular traffic. The review authority may require landscaping as a condition of approval to conceal ground-mounted equipment.
4. **Pole-mounted Equipment.** All pole-mounted equipment shall be installed as close to the pole as technically and legally feasible to minimize impacts to the visual profile, painted flat and non-reflective colors to match the underlying pole, placed behind existing signs, and oriented away from prominent views. All required or permitted signage in the right-of-way must face toward the street or otherwise placed to minimize visibility from adjacent sidewalks and structures. All conduits, conduit attachments, cables, wires and other connectors must be concealed from public view to the extent feasible.

18.96.090 – Operation and Maintenance Requirements

- A. Inspections and Emergencies.** The City or its designee may enter onto the facility area to inspect the facility upon reasonable notice to the permit holder. The permit holder shall cooperate with all inspections. The City or its designee may enter the facility and support, repair, disable or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property.
- B. Contact Information for Responsible Parties.** The permit holder shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address and email address for at least one natural person. All such contact information for responsible parties shall be provided to the Community Development Director upon the Community Development Director's written or verbal request.
- C. General Maintenance.** The site and the facility, including but not limited to all landscaping, fencing and related transmission equipment, shall be maintained in a neat and clean manner and in accordance with all approved permits and conditions of approval.

D. Removal of Discontinued Equipment. All equipment and improvements associated with a wireless communications facility shall be removed within 30 days of the discontinuation of the use, and the site shall be restored to its original pre-construction condition. If a permit holder fails to remove a discontinued facility, the City may remove or cause to remove the facility at the permit holder's sole expense.

E. Change in Federal or State Regulations. All facilities shall meet the current standards and regulations of the FCC, the California Public Utilities Commission, and any other agency of the federal or state government with the authority to regulate wireless communications providers—. If such standards and/or regulations are changed, the wireless communications provider shall bring its facilities into compliance with such revised standards and regulations within 90 days of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal or state agency. Failure to bring a wireless communications facility into compliance with revised standards and regulations shall constitute grounds for the immediate removal of the facility at the wireless communications provider's expense.

~~D.—~~

E.F. RF Exposure Compliance. All facilities shall comply with all standards and regulations of the FCC and any other state or federal government agency with the authority to regulate radio frequency (RF) exposure standards. Under the Federal Telecommunications Act of 1996, the City may not deny an application for a wireless telecommunications facility due to perceived health risks if the proposed facility complies with Federal RF exposure standards.

18.96.100 – Limited Waivers

A. Request for Exemption. An applicant may request a waiver from one or more requirements in this chapter on the basis that a permit denial would effectively prohibit personal wireless services in Morgan Hill.

B. Basis for Approval. For the City to approve such an exemption, the applicant must demonstrate with clear and convincing evidence all of the following:

1. A significant gap in the applicant's service coverage exists;
2. All alternative sites identified in the application review process are either technically infeasible or not potentially available; and
3. Permit denial would effectively prohibit personal wireless services in Morgan Hill.

C. Applicant Must Demonstrate Basis for Approval. The applicant always bears the burden to demonstrate why an exemption should be granted.—

~~A. to excuse it from having to comply with one or more requirements in this chapter or may appeal a decision to deny a permit on the basis that the requirement or permit denial violates state or federal law. The City shall grant the waiver upon finding that the challenged requirement or action is preempted by state or federal law.~~

18.96.110 – Severability

If any section or portion of this chapter is found to be invalid by a court of competent jurisdiction, such finding shall not affect the validity of the remainder of the chapter, which shall continue in full force and effect.~~In the event that a court of competent jurisdiction holds any section, subsection, paragraph, sentence, clause or phrase in this chapter unconstitutional, preempted, or otherwise invalid, the invalid portion shall be severed from this section and shall not affect the validity of the remaining portions of this section. The City hereby declares that it would have adopted each section, subsection, paragraph, sentence, clause or phrase in this section irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses or phrases in this section might be declared unconstitutional, preempted or otherwise invalid.~~

PART 4

Permits and Administration

Chapter 18.100 – Administrative Responsibility.....100-1

- 18.100.010 – Purpose
- 18.100.020 – Planning Agency
- 18.100.030 – Review and Decision-Making Authority

Chapter 18.104 – Common Permit Requirements.....104-1

- 18.104.010 – Purpose
- 18.104.020 – Application Preparation and Filing
- 18.104.030 – Application Fees
- 18.104.040 – Application Review
- 18.104.050 – Multiple Permit Applications
- 18.104.060 – Project Evaluation and Staff Reports
- 18.104.070 – Environmental Review
- 18.104.080 – Applications Deemed Withdrawn
- 18.104.090 – Notice of Hearing
- 18.104.100 – Notice of Pending Action
- 18.104.110 – Scheduling of Hearing
- 18.104.120 – Hearing Procedure
- 18.104.130 – Recommendations
- 18.104.140 – Decision and Notice
- 18.104.150 – Conditions of Approval
- 18.104.160 – Effective Date of Decision
- 18.104.170 – Issuance of Permits
- 18.104.180 – Conformance to Approved Plans
- 18.104.190 – Performance Guarantees
- 18.104.200 – Changes to an Approved Project
- 18.104.210 – Time Limits and Extensions
- 18.104.220 – Resubmittals
- 18.104.230 – Permits to Run with the Land
- 18.104.240 – Permit Revocation

Chapter 18.108 – Specific Permit Requirements.....108-1

- 18.108.010 – Purpose
- 18.108.020 – Administrative Use Permits
- 18.108.030 – Conditional Use Permits
- 18.108.040 – Design Permit

- 18.108.050 – Historic Alteration Permit
- 18.108.060 – Historic Demolition or Relocation Permit
- 18.108.070 – Minor Exceptions
- 18.108.080 – Sign Permits
- 18.108.090 – Temporary Use Permits
- 18.108.100 – Variances

Chapter 18.112 – Appeals.....112-1

- 18.112.010 – Purpose
- 18.112.020 – Appeal Subjects and Jurisdiction
- 18.112.030 – Filing and Processing of Appeals
- 18.112.040 – Judicial Review

Chapter 18.114 – Zoning Code Amendments.....114-1

- 18.114.010 – Purpose
- 18.114.020 – Initiation
- 18.114.030 – Application
- 18.114.040 – Planning Commission Hearing and Action
- 18.114.050 – City Council Hearing and Action
- 18.114.060 – Findings for Approval
- 18.114.070 – Effective Date
- 18.114.080 – Limitations on Resubmittals after Denial

Chapter 18.116 – Development Agreements..... 116-1

- 18.116.010 – Purpose
- 18.116.020 – Applications
- 18.116.030 – Contents of Development Agreements
- 18.116.040 – Consideration of Proposed Development Agreements
- 18.116.050 – Execution and Recordation of Development Agreement
- 18.116.060 – Annual Review
- 18.116.070 – Cancellation or Modification
- 18.116.080 – Miscellaneous Provisions

Chapter 18.118 – Reasonable Accommodations.....118-1

- 18.118.010 – Purpose
- 18.118.020 – When Allowed
- 18.118.030 – Review Authority
- 18.118.040 – Public Notice of Process Availability
- 18.118.050 – Application Requirements
- 18.118.060 – Review Procedure
- 18.118.070 – Criteria for Decision
- 18.118.080 – Conditions of Approval

18.118.090 – Appeals

Chapter 18.120 - Enforcement.....120-1

18.120.010 – Purpose

18.120.020 – Violations

18.120.030 – Permits and Approvals

18.120.040 – Enforcement Responsibility

18.120.050 – Enforcement Procedures

18.120.060 – Continuing Violations

18.120.070 – Remedies

18.120.080 – Remedies are Cumulative

– This Page Intentionally Left Blank –

Chapter 18.100 – ADMINISTRATIVE RESPONSIBILITY

Sections:

18.100.010 – Purpose

18.100.020 – Planning Agency

18.100.030 – Review and Decision-Making Authority

18.100.010 – Purpose

This chapter describes the authority and responsibilities of the City Council, Planning Commission, and the Community Development Director in the administration of the Zoning Code.

18.100.020 – Planning Agency

The City Council, Planning Commission, and Community Development Director function as the Planning Agency and as the Advisory Agency in compliance with Government Code Section 65100.

18.100.030 – Review and Decision-Making Authority

Table 18.100-1 shows the review and decision-making authority of the City Council, Planning Commission, and Community Development Director in the administration of the Zoning Code.

TABLE 18.100-1: REVIEW AND DECISION-MAKING AUTHORITY

Type of Action	<u>Code Location</u>	Role of Authority [1]		
		Community Development Director	Planning Commission	City Council
Legislative Actions				
Development Agreements	<u>18.116</u>	Recommend	Recommend	Decision
Zoning Code Text and Map Amendments [2]	<u>18.114</u>	Recommend	Recommend	Decision
Permits				
Administrative Use Permits	<u>18.108.020</u>	Decision	Appeal	Appeal
Conditional Use Permits	<u>18.108.030</u>	Recommend	Decision	Appeal
Design Permits	<u>18.108.040</u>	Decision	Appeal	Appeal
Historic Alteration Permits	<u>18.108.050</u>	Decision	Appeal	Appeal

Type of Action	<u>Code</u> <u>Location</u>	Role of Authority [1]		
		Community Development Director	Planning Commission	City Council
Historic Demolition or Relocation Permit	<u>18.108.060</u>	Recommend	Decision	Appeal
Sign Permits	<u>18.88.030</u>	Decision	Appeal	Appeal
Temporary Use Permit	<u>18.108.090</u>	Decision	Appeal	Appeal
Other Approvals				
Minor Exceptions	<u>18.108.070</u>	Decision	Appeal	Appeal
Planned Development (PD) Master Plan	<u>18.30.050</u>	Recommend	Recommend	Decision
Reasonable Accommodations	<u>18.118</u>	Decision	Appeal	Appeal
Variances	<u>18.108.100</u>	Recommend	Decision	Appeal
Zoning Clearance	<u>18.108.110</u>	Decision	Appeal	Appeal

Notes:

[1] "Recommend" means that the review authority makes a recommendation to a higher decision-making body; "Decision" means that the review authority makes the final decision on the matter; "Appeal" means that the review authority shall consider and decide appeals of decisions of an earlier decision-making body, in compliance with Chapter 18.112 (Appeals).

[2] Includes the application of a Planned Development (PD) combining district designation to a property.

Chapter 18.104 – COMMON PERMIT REQUIREMENTS

Sections:

- 18.104.010 – Purpose
- 18.104.020 – Application Preparation and Filing
- 18.104.030 – Application Fees
- 18.104.040 – Application Review
- 18.104.050 – Multiple Permit Applications
- 18.104.060 – Project Evaluation and Staff Reports
- 18.104.070 – Environmental Review
- 18.104.080 – Applications Deemed Withdrawn
- 18.104.090 – Notice of Hearing
- 18.104.100 – Notice of Pending Action
- 18.104.110 – Scheduling of Hearing
- 18.104.120 – Hearing Procedure
- 18.104.130 – Recommendations
- 18.104.140 – Decision and Notice
- 18.104.150 – Conditions of Approval
- 18.104.160 – Effective Date of Decision
- 18.104.170 – Issuance of Permits
- 18.104.180 – Conformance to Approved Plans
- 18.104.190 – Performance Guarantees
- 18.104.200 – Changes to an Approved Project
- 18.104.210 – Time Limits and Extensions
- 18.104.220 – Resubmittals
- 18.104.230 – Permits to Run with the Land
- 18.104.240 – Permit Revocation

18.104.010 – Purpose

This chapter establishes procedures for the preparation, filing, and processing of permits required by the Zoning Code. The term “permit” when used in this chapter refers to any action, permit, or approval listed in Table 18.100-1 (Review and Decision-Making Authority).

18.104.020 – Application Preparation and Filing

A. Pre-Application Conference.

1. The City encourages prospective applicants to request a pre-application conference with the Development Services Department before completing and filing a permit application.

2. The purpose of this conference is to:
 - a. Inform the applicant of City requirements as they apply to the proposed project;
 - b. Inform the applicant of the City's review process;
 - c. Identify information and materials the City will require with the application, and any necessary technical studies and information relating to the environmental review of the project; and
 - d. Provide guidance to the applicant of possible project alternatives or modifications.
3. The pre-application conference and any information provided to prospective applicants by City staff shall not be construed as a recommendation for approval or denial of an application.
4. Failure by City staff to identify all permit requirements shall not constitute a waiver of those requirements.

B. Application Contents.

1. All permit applications shall be filed with the Development Services Department on an official City application form.
2. Applications shall be filed with all required fees, information, and materials as specified by the Development Services Department.

C. Eligibility for Filing.

1. An application may only be filed by the property owner or the property owner's authorized agent.
2. The application shall be signed by the property owner or the property owner's authorized agent if written authorization from the owner is filed concurrently with the application.

18.104.030 – Application Fees

► *Note: Subsection B (Requirement of Payment) and C (Refunds and Withdrawals) below are new.*

A. Fee Schedule. Fees required to process permit applications are identified in the Planning Division Fee Schedule approved by the City Council.

B. Requirement of Payment.

1. The City may deem an application complete and begin processing the application only after all required fees have been paid.
2. Failure to pay any required supplemental application fees is a basis for denial or revocation of a permit application.

C. Refunds and Withdrawals.

1. Application fees cover City costs for public hearings, mailings, staff and consultant time, and the other activities involved in processing applications. Consequently, the City will not refund fees for a denied application.
2. In the case of an application withdrawal, the Community Development Director may authorize a partial refund of a deposit account based upon the pro-rated costs to date and the status of the application at the time of withdrawal.
3. Flat fees submitted in conjunction with a permit application are non-refundable.

18.104.040 – Application Review**A. Review for Completeness.**

1. **Initial Review.** The Development Services Department shall review each application for completeness and accuracy before it is accepted as being complete and officially filed.
2. **Basis for Determination.** The Development Services Department's determination of completeness shall be based on the City's list of required application contents and any additional written instructions provided to the applicant in a pre-application conference and during the initial application review period.
3. **Notification of Applicant.** Within 30 days of application filing, the Development Services Department shall inform the applicant in writing that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information is required.
4. **Appeal of Determination.** When the Development Services Department has determined that an application is incomplete, and the applicant believes that the application is complete or that the information requested by the Development Services Department is not required, the applicant may appeal the Development Services Department's determination in compliance with Chapter 18.112 (Appeals).
5. **Submittal of Additional Information.**
 - a. When the Development Services Department determines that an application is incomplete, additional required information shall be submitted in writing.
 - b. Resubmitted information shall be subject to a new 30-day period of review for completeness.
6. **Environmental Information.** After the Development Services Department has accepted an application as complete, the Department may require the applicant to submit additional information for the environmental review of the project in compliance with the California Environmental Quality Act (CEQA).

18.104.050 – Multiple Permit Applications

- A. Concurrent Filing.** An applicant for a development project that requires the filing of more than one application (e.g., Zoning Map Amendment and a Conditional Use Permit) shall file all related applications concurrently unless the concurrent filing requirements are waived by the Community Development Director.
- B. Concurrent Processing.** The Development Services Department shall process multiple applications for the same project concurrently. Projects requiring multiple permit applications shall be reviewed and acted upon by the highest review authority designated by the Zoning Code for any of the applications (e.g., a project requiring a Zoning Map Amendment and a Conditional Use Permit shall have both applications decided by the City Council, instead of the Planning Commission acting on the Conditional Use Permit).

18.104.060 – Project Evaluation and Staff Reports

- A. Staff Evaluation.** The Development Services Department shall review all permit applications to determine if they comply with the Zoning Code, the General Plan, and other applicable City policies and regulations.
- B. Staff Report.** For all permit applications requiring review by the Planning Commission or City Council, the Development Services Department shall prepare a staff report describing the proposed project and including, where appropriate, a recommendation to approve, approve with conditions, or deny the application.
- C. Report Distribution.** Staff reports shall be furnished to the applicant at the same time as they are provided to the review authority before action on the application.

18.104.070 – Environmental Review

- A. CEQA Review.** After acceptance of a complete application, the Development Services Department shall review the project in compliance with the California Environmental Quality Act (CEQA) to determine whether:
 - 1. The proposed project is exempt from the requirements of CEQA;
 - 2. The proposed project is not a project as defined by CEQA;
 - 3. A Negative Declaration (ND) may be issued;
 - 4. A Mitigated Negative Declaration (MND) may be issued;
 - 5. An Environmental Impact Report (EIR) is required; or
 - 6. A previously prepared ND/MND or EIR may be used.
- B. Compliance with CEQA.** These determinations and, where required, the preparation of appropriate environmental documents shall be in compliance with CEQA and any adopted City CEQA guidelines.

- C. Special Studies Required.** Special studies, paid for in advance by the applicant, may be required to supplement the City's CEQA compliance review.

18.104.080 – Applications Deemed Withdrawn

- A. Response Required.** If an applicant does not pay required supplemental fees or provide information requested in writing by the Development Services Department within nine months following the date of the letter, the application shall expire and be deemed withdrawn without any further action by the City.
- B. Resubmittal.** After the expiration of an application, future City consideration shall require the submittal of a new complete application and associated filing fees.

18.104.090 – Notice of Hearing

When the Zoning Code requires a noticed public hearing, the City shall provide notice of the hearing in conformance with Government Code Section 65090 et. seq. and as described in this section.

- A. Content of Notice.** Notice of a public hearing shall include all of the following information, as applicable.
1. **Hearing Information.** The date, time, and place of the hearing; the name of the hearing body; and the phone number, email address, and street address of the Development Services Department where an interested person could call or visit to obtain additional information.
 2. **Project Information.** The name of the applicant, the City's file number assigned to the application, a general explanation of the matter to be considered, and a general description of the location of the subject property.
 3. **Statement on Environmental Document.** A statement that the proposed project is determined to be exempt from the California Environmental Quality Act (CEQA), or that a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report has been prepared for the project. The hearing notice shall state if the hearing body will consider approval of the CEQA determination or document prepared for the proposed project.
 4. **Zoning Map Amendments.** On-site ~~P~~ublic notices posted for proposed Zoning Map Amendments shall consist of the words "Notice of Proposed Change of Zone" printed in plain type with letters not less than 1½ inches in height.
- B. Method of Notice Distribution.** Notice of a public hearing shall be given at least 10 days before the hearing date using the methods required by Government Code Section 65091.

1. **Mailing.** Where required, notice shall be mailed or delivered at least ten days before the scheduled hearing to the following recipients:
 - a. **Project Site Owners and the Applicant.** The owners of the subject property or the owner's authorized agent, and the applicant.
 - b. **Adjacent Property Owners.** The owners of the real property located within a radius of 300 feet from the exterior boundaries of the subject property.
 - c. **Local Agencies.** Each local agency expected to provide roads, schools, sewerage, streets, water, or other essential facilities or services to the subject property, whose ability to provide those facilities and services may be significantly affected.
 - d. **Persons Requesting Notice.** Any person who has filed a written request for notice with the Development Services Department.
 - e. **Other Persons.** Any other person, whose property, in the judgment of the Development Services Department, might be affected by the proposed project.
2. **Alternative to Mailing.** If the number of property owners to whom notice would be mailed in compliance with Paragraph 1 above is more than 1,000, the Development Services Department may provide notice by placing a display advertisement of at least one-eighth page in one or more local newspapers of general circulation at least ten days prior to the hearing.
3. **Additional Notice.** In addition to the types of notice required above, the Development Services Department may ~~provide~~require additional notice as determined necessary or desirable by the Community Development Director.
4. **Failure to Receive Notice.** The validity of the hearing shall not be affected by the failure of any resident, property owner, or community member to receive a mailed notice.

18.104.100 – Notice of Pending Action

► *Note: This section is new.*

- A. For Administrative Use Permit and Minor Exception applications reviewed by the Community Development Director, public notice shall state that the City is considering the application and that the Community Development Director will hold a public hearing for the application only upon receiving written request for a hearing by a specified date.
- B. If the City receives a request for a public hearing by a specified date, the Community Development Director shall hold a noticed public hearing on the application consistent with this chapter.

- C. If no request for a public hearing is received by the specified date, the Community Development Director shall act on the application without a public hearing.

18.104.110 – Scheduling of Hearing

After the completion of any environmental document required by the California Environmental Quality Act (CEQA), and a Development Services Department staff report, a matter requiring a public hearing shall be scheduled on the next available agenda reserved for public hearings, but no sooner than any minimum time period established by State law.

18.104.120 – Hearing Procedure

- A. **General.** Hearings shall be conducted in a manner consistent with the procedures adopted or endorsed by the hearing body.
- B. **Time and Place of Hearing.** A hearing shall be held at the date, time, and place for which notice was given, unless the required quorum of hearing body members is not present.
- C. **Continued Hearing.** Any hearing may be continued from time to time without further notice, provided that the chair of the hearing body announces the date, time, and place to which the hearing will be continued before the adjournment or recess of the hearing.
- D. **Motion of Intent.** The hearing body may announce a tentative decision, and defer action on a final decision until appropriate findings and conditions of approval have been prepared.

18.104.130 – Recommendations

After a public hearing resulting in a recommendation to another hearing body, the recommendation shall be forwarded to the other hearing body.

18.104.140 – Decision and Notice

► *Note: Subsection A (Date of Action) is new.*

- A. **Date of Action.** With the exception of appeals to the City Council, the hearing body shall take action on the matter being considered following the close of the public hearing. The hearing body shall also take action on projects within the following timeframe as required by the California Environment Quality Act (CEQA):
1. Within 60 days of the date a Negative Declaration or Mitigated Negative Declaration has been adopted for project approval, the City shall take action on the accompanying discretionary project.
 2. Within 180 days from the date the decision-making authority certifies a final Environmental Impact Report (EIR), the City shall take action on the accompanying discretionary project.

B. Decision.

1. The hearing body may announce and record its decision on the matter being considered at the conclusion of a scheduled hearing, or make a motion of intent and continue the matter to a later meeting agenda.
2. At the conclusion of a hearing conducted by the Community Development Director, the Community Development Director may choose to refer the matter to the Planning Commission for review and final decision. Referral to the Planning Commission may be chosen in cases of unusual public sensitivity, controversy, or complexity relating to the requested approval.

C. Notice of Decision.

1. Following a final decision, the Development Services Department shall provide notice of the final action to the applicant and to any person who specifically requested notice of the final action.
2. Notice of a final action shall contain applicable findings, conditions of approval, reporting and monitoring requirements, and the procedure for appeal of the decision.

18.104.150 – Conditions of Approval

The review authority may attach conditions of approval to a permit application to achieve consistency with the General Plan, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.

18.104.160 – Effective Date of Decision

- A. City Council Decision.** A decision of the City Council is final and shall be effective on the date the decision is rendered.
- B. Other Decisions.** The decision of the Community Development Director or Planning Commission is final and effective after 5:00 p.m. on the tenth day following the date the decision is rendered, when no appeal to the decision has been filed in compliance with Chapter 18.122 (Appeals).

18.104.170 – Issuance of Permits

Permits shall not be issued until the effective date, provided that no appeal of the review authority's decision has been filed in compliance with Chapter 18.112 (Appeals).

18.104.180 – Conformance to Approved Plans

- A. Compliance.** All work performed under an approved permit shall be in compliance with the approved drawings and plans and any conditions of approval imposed by the review authority.

- B. Changes.** Changes to an approved project shall be submitted and processed in compliance with Section 18.104.200 (Changes to an Approved Project) below.

18.104.190 – Performance Guarantees

► *Note: This section is new.*

- A. Security Required.** The Community Development Director may require an applicant to provide adequate security to guarantee the proper completion of any approved work or compliance with any conditions of approval.
- B. Form of Security.** The security shall be in the form of cash, a certified or cashier's check, or a performance bond executed by the applicant and a corporate surety authorized to do business in California and approved by the City.
- C. Amount of Security.** The Community Development Director shall determine the amount of the security necessary to ensure proper completion of the approved work or compliance with any conditions of approval.
- D. Duration of Security.** The security shall remain in effect until all work has been completed and conditions fulfilled to the satisfaction of the Community Development Director or until a specified warranty period has elapsed.
- E. Release of Security.** The security deposit shall be released upon completion of the approved work or compliance with any conditions of approval.
- F. Failure to Comply.**
1. Upon failure to complete any work or comply with conditions, the City may complete the work or fulfill the condition, and may collect from the applicant or surety all costs incurred, including administrative, engineering, legal, and inspection costs.
 2. Any unused portion of the security shall be refunded to the funding source.

18.104.200 – Changes to an Approved Project

► *Note: Criteria for the Community Development Director to approve a minor change in Subsection C (Minor Change) below is new.*

An approved project shall be established only as approved by the review authority, except when changes to the project are approved in compliance with this section.

- A. Request for a Change.** An applicant shall request desired changes in writing, and shall submit appropriate supporting materials and an explanation for the request.
- B. Notice and Hearing.** If the original approval required a noticed public hearing, a noticed public hearing is required for the requested change, except as allowed by Subsection C (Minor Changes).

C. Minor Changes. The Community Development Director may authorize minor changes to an approved project if the changes comply with all of the following criteria:

1. The requested changes are consistent with the Zoning Code.
2. The requested changes are consistent with the spirit and intent of the original approval.
3. The requested changes do not involve a feature of the project that was a basis for findings in a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report for the project.
4. The requested changes do not involve a feature of the project that was a basis for conditions of approval for the project.
5. The requested changes do not involve a feature of the project that was a specific consideration by the review authority in granting the approval.
6. The requested changes do not involve any expansion, intensification, or increase in size of the land use or structure.

18.104.210 – Time Limits and Extensions

► *Note: The following changes are made to time limit extension procedures in the existing Zoning Code: time limits for permits in the existing Zoning Code range from six months to five years depending on the type of permit. Section A establishes a standard two-year time limit for all permits with opportunity for an additional two year extensions; the existing Zoning Code requires the Planning Commission to approve an extension for Conditional Use Permit. Subsection C allows the Director to approve extensions for all permits with the option to refer the request to the Planning Commission and establishes a standardized extension process for all types of permits; Section B Exercised Defined) replaces definition of “commencement of use” in existing Zoning Code Section 18.54.070.B.*

A. Expiration of Permit.

1. A permit not exercised within two years shall expire and become void, except where an extension of time is approved as allowed by Subsection C (Extension of Time) below.
2. A permit shall expire and become void if the permitted land use ~~is abandoned or discontinued~~ceases for one year or longer.

B. Exercised Defined. A permit or approval shall be considered exercised when:

1. A building permit is issued and construction has commenced;
2. A certificate of occupancy is issued; or
3. The land use is established.

C. Extension of Time. The Community Development Director may approve extensions to a permit in the following manner:

1. The Community Development Director may approve up to two two-year extensions (four years total) to a permit.
2. The applicant shall submit to the Development Services Department a written request for an extension of time no later than ten days before the expiration of the permit.
3. The Community Development Director may extend the permit if the applicant has proceeded in good faith and has exercised due diligence in efforts to exercise the permit in a timely manner.
4. The burden of proof is on the applicant to demonstrate that the permit should be extended.
5. The Community Development Director may choose to refer any extension of time requests to the Planning Commission for review and final decision.

18.104.220 – Resubmittals

- A. Resubmittals Prohibited.** For a period of twelve months following the denial or revocation of a permit, the City shall not accept an application for the same or substantially similar permit for the same site, unless the denial or revocation was made without prejudice, and so stated in the record.
- B. Determination.** The Community Development Director shall determine whether the new application is for a permit which is the same or substantially similar to the previously denied or revoked permit.
- C. Appeal.** The determination of the Community Development Director may be appealed to the Planning Commission, in compliance with Chapter 18.112 (Appeals).

18.104.230 – Permits to Run with the Land

Permits issued in compliance with the Zoning Code remain valid upon change of ownership of the site, structure, or land use that was the subject of the permit application.

18.104.240 – Permit Revocation

► *Note: Findings for permit revocation in Subsection D (Findings) are new.*

Any discretionary permit may be revoked as provided for in this section.

A. Review Authority.

1. A permit may be revoked by the review authority which originally approved the permit.
2. In instances where the Community Development Director was the approval authority, the Community Development Director may choose to refer any action to revoke a permit to the Planning Commission for review and final decision.

- B. Property Owner Notification.** Prior to initiating proceedings to revoke a permit, the Community Development Director shall notify the property owner of the permit violations, identify necessary corrections, and establish a reasonable period within which the property owner shall correct the violations. If the property owner has not corrected the violation within the specified period of time, the City may proceed with the process to revoke the permit.
- C. Public Notice and Hearing.** Public notice and hearing for any action to revoke a permit shall be provided in compliance with Section 18.104.090 (Notice of Hearing).
- D. Findings.** The review authority may revoke a permit only if one or more of the following findings can be made:
1. The applicant or property owner has altered the circumstances under which the permit was granted to a degree that one or more of the findings required to grant the original permit can no longer be made.
 2. Permit issuance was based on misrepresentation by the applicant, either through the omission of a material statement in the application, or in public hearing testimony.
 3. One or more conditions of approval have been violated, or have not been complied with or fulfilled.
 4. The use or structure for which the permit was granted no longer exists or ~~has been discontinued~~ceases for a continuous period of at least twelve months.
 5. The applicant or property owner has failed or refused to allow inspections for compliance.
 6. Improvements authorized by the permit are in violation of the Zoning Code or any law, ordinance, regulation, or statute.
 7. The use or structure is being operated or maintained in a manner which constitutes a nuisance.
- E. Effect of Revocation.** The revocation of a permit shall have the effect of terminating the approval and denying the privileges granted by the permit.

Chapter 18.108 – SPECIFIC PERMIT REQUIREMENTS

Sections:

- 18.108.010 – Purpose
- 18.108.020 – Administrative Use Permits
- 18.108.030 – Conditional Use Permits
- 18.108.040 – Design Permit
- 18.108.050 – Historic Alteration Permit
- 18.108.060 – Historic Demolition or Relocation Permit
- 18.108.070 – Minor Exceptions
- 18.108.080 – Sign Permits
- 18.108.090 – Temporary Use Permits
- 18.108.100 – Variances

18.108.010 – Purpose

This chapter identifies procedures for specific types of permits and approvals required by the Zoning Code.

18.108.020 – Administrative Use Permits

► *Note: An Administrative Use Permits is a new type of use permit approved by the Community Development Director.*

- A. Purpose.** An Administrative Use Permit is required for land uses that are generally appropriate within a district, but potentially undesirable on a particular parcel or in large numbers. An Administrative Use Permit is a discretionary action that enables the Community Development Director to ensure that a proposed use is consistent with the General Plan and will not create negative impacts to adjacent properties or the general public.
- B. When Required.** Land uses that require an Administrative Use Permit are shown in the land use regulation tables for each zoning district found in Part 2 (Zoning District Standards).
- C. Review Authority.** The Community Development Director takes action on Administrative Use Permit applications. The Community Development Director may refer any Administrative Use Permit application to the Planning Commission for review and final decision.
- D. Public Notice and Hearing.** Public notice of a pending action on an Administrative Use Permit application shall be provided in compliance with Section 18.104.100 (Notice of Pending Action). The Community Development Director shall hold a public hearing

for a minor use permit application only upon receiving a written request for a public hearing as provided in Section 18.104.090.

E. Findings for Approval. To approve an Administrative Use Permit, the review authority shall make all of the following findings:

1. The proposed use is allowed in the applicable district.
2. The proposed use is consistent with the General Plan, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.
3. The site is suitable and adequate for the proposed use.
4. The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and future land uses in the vicinity of the property.
5. The proposed use will not be detrimental to the public health, safety, and welfare.
6. The proposed use would not have a substantial adverse effect in traffic circulation and on the planned capacity of the street system.
7. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.

18.108.030 – Conditional Use Permits

► *Note This section replaces existing Article I of Chapter 18.54 and makes the following changes to the existing Zoning Code: eliminates specific application contents for Conditional Use Permit applications. New Section 18.104.020 (Application Preparation and Filing) identifies application requirement that applies to all permit applications; removes provisions on permit issuance and expiration that are repeated for all permits types and states these once in new Chapter 18.104 (Common Permit Requirements); eliminates existing Section 18.54.035 (Application process—Hazardous materials reprocessing uses); merges “considerations” in existing Section 18.54.040 with findings in existing Section 18.54.050.B in new Section 18.108.040.E (Findings for Approval); eliminates existing Section 18.54.090 (Annual Review). New Section 18.104.240 (Permit Revocation) allows the City to revoke a Conditional Use Permit for a violation of a condition of approval.*

- A. Purpose.** A Conditional Use Permit is required for land uses that are generally appropriate within a district, but potentially undesirable on a particular parcel or in large numbers. A Conditional Use Permit is a discretionary action that enables the Planning Commission to ensure that a proposed use is consistent with the General Plan and will not create negative impacts to adjacent properties or the general public.
- B. Review Authority.** The Planning Commission shall review and act on all Conditional Use Permit applications.
- C. When Required.** Land uses that require a Conditional Use Permit are shown in the land use regulation tables for each zoning district found in Part 2 (Zoning Districts and Overlay Zones).

- D. Public Notice and Hearing.** The Planning Commission shall review and act on a Conditional Use Permit application at a noticed public hearing in compliance with Chapter 18.104 (Common Permit Requirements).
- E. Findings for Approval.** To approve a Conditional Use Permit, the Planning Commission shall make all of the following findings:
1. The proposed use is allowed in the applicable district.
 2. The proposed use is consistent with the General Plan, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.
 3. The site is suitable and adequate for the proposed use.
 4. The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and future land uses in the vicinity of the property.
 5. The proposed use will not be detrimental to the public health, safety, and welfare.
 6. The proposed use would not have a substantial adverse effect in traffic circulation and on the planned capacity of the street system.
 7. The proposed use is properly located within the city and adequately served by existing or planned services and infrastructure.

18.108.040 – Design Permit

- *Note: This section replaces Chapter 18.74 in the existing Zoning Code and makes the following changes to the existing Zoning Code: translates findings and policy in existing Section 18.74.010 and purpose of provisions in existing Section 18.74.020 into Design Criteria in new Subsection H (Design Criteria); eliminates existing Section 18.74.050 (Design standards and guidelines); adds general criteria in paragraph D.1 for the determination that a project is “significant” and thus requires a Design Permit; adds new Subsection H (Design Criteria) that address broad range of design issues to consider through design review process; ~~adds reference to new residential design criteria in new Chapter 18.42 (Residential Design Criteria);~~ removes sections that apply to all types of permits (e.g., application submittal and review, environmental review, public notice, appeals, expiration, and revocation) and states once in new Chapter 18.104 (Common Permit Requirements); moves landscaping provisions in existing Sections 18.74.150, 160, and 170 to new Chapter 18.64 (Landscaping).*

- A. Purpose.** A Design Permit is a discretionary action that enables the City to ensure that proposed development exhibits high quality design consistent with the General Plan and any other applicable specific plan or area plan adopted by the City Council. The Design Permit process is also intended to ensure that new development and uses are compatible with their surroundings and minimize negative impacts on neighboring properties.
- B. Review Authority.**
1. The Community Development Director shall review and act on all Design Permit applications.

2. The Community Development Director may refer any Design Permit application to the Planning Commission for review and final decision.
3. The City Council shall review and act on all Design Permit applications for new City projects (e.g., new municipal buildings, parks) determined by the Community Development Director to be significant in accordance with Subsection D below.

C. When Required. The following types of projects require a Design Review permit:

1. Three or more new residential units.
2. One or more new residential unit on a sensitive site as defined in Subsection E (Sensitive Sites) below.
3. New non-residential buildings, structures physical site improvements determined to be significant in accordance with Subsection D (Significant Projects) below.
4. Additions to existing buildings, structures, or other physical site improvements visible from a public right-of-way and determined to be significant in accordance with Subsection D (Significant Projects) below. Single-family homes are exempt unless the home is on a sensitive site as defined in Subsection E below.
5. Additions to existing residences located on a sensitive site as defined in Subsection E below.
6. Site alterations that change the topography of the currently developed site area on a sensitive site as defined in Subsection E below.
7. Relocation of existing buildings, structures or other physical site improvements.
8. Exterior changes to existing buildings, structures or other site improvements determined to be significant in accordance with Subsection D (Significant Projects) below. Single-family homes are exempt unless the home is on a sensitive site as defined in Subsection E below.
9. Grading of more than 50 cubic yards on slopes greater than ten percent.
10. New accessory structures including secondary dwelling units or guest homes on a sensitive site as defined in Subsection E below.
11. City projects, including but not limited to municipal buildings, parks and open spaces, landscaping within the right-of-way, and street furniture.
12. Other projects determined by the Community Development Director to be significant or which may adversely affect the environment or adjacent development.

D. Significant Projects.

1. The Community Development Director shall determine whether a project in Subsection C above is significant and thus requires a Design Review permit. When determining if a project is significant, the Community Development Director shall consider:

- a. The visual prominence of the project when viewed from the public right-of-way and/or private property;
 - b. The project height, mass, and area of site disturbance;
 - c. The type, character, and proximity of adjacent development; and
 - d. The potential of the project to create adverse impacts on adjacent uses or the community at large.
2. The Community Development Director's determination that a project is significant may be appealed to the Planning Commission in accordance with Chapter 18.112 (Appeals).

E. Sensitive Sites.

1. The Community Development Director may require a Design Permit for a project located on a sensitive site where a Design Permit may not otherwise be required.
2. The Community Development Director's determination that a site is sensitive and that a Design Permit is required may be appealed to the Planning Commission in accordance with Chapter 18.112 (Appeals).
3. The City shall consider a site to be sensitive if the site:
 - a. Contains a notable natural feature such as a hillside, ridgeline, watercourse, major drainage way or floodplain;
 - b. Contains or is immediately adjacent to a mapped riparian habitat area or a mapped critical habitat for federally listed endangered species;
 - c. Is within an official earthquake fault zone as defined in Section 18.30.060 (Active Fault Surface Rupture Overlay Zone);
 - d. Contains slopes in excess of ten percent or within the Hillside Combining District;
 - e. Is within a seismic hazard zone as defined in Chapter 18.70 (Geologic Hazards);
 - f. Is within 200 feet of a lake or shore;
 - g. Is within 50 feet of a stream or watercourse; or
 - h. Contains known, mapped, potentially significant or listed cultural or historic resources as defined in Chapter 18.60 (Historical Resources).

F. Exempt Projects. In all cases the following projects shall be exempt from the requirement to obtain a Design Permit:

1. Building additions less than 500 square feet which will not be visible from a public right-of-way.
2. Exterior modifications to existing buildings that are not visible from any public right-of-way.

3. Parking lot resurfacing and re-striping, or minor alterations to parking lots, provided the number of spaces is not reduced or the property provides the minimum number of on-site parking spaces as required by Chapter 18.72 (Parking and Loading).
4. Replacement or addition of existing windows, doors, or roofing materials.
5. Repainting or retexturing exterior building walls with similar or higher quality materials.
6. Addition of plant material and/or planter areas that occupy less than 20 percent of the site or removal or modification of a minor amount of existing landscape area.
7. Replacement of existing awnings or trellises, or the addition of an awnings or trellises less than 5 feet in width.
8. Replacement of existing walls and fencing.
9. Addition, relocation, or replacement of trash enclosures, mechanical screens, and light fixtures.
10. Remodel or addition of ramps, pathways or parking to accommodate the requirements of federal, state or local accessibility laws.
11. Murals with or without signage that comply with Chapter 18.76 (Signs) and any applicable specific plan or area plan.
12. Other projects determined by the Community Development Director to be a minor or incidental modification to an existing building, structure, or site feature.

G. Public Notice and Hearing.

1. Public notice of a pending action on a Design Permit application reviewed by the Community Development Director shall be provided in compliance with Section 18.104.100 (Notice of Pending Action). The Community Development Director shall hold a public hearing for a Design Permit application only upon receiving a written request for a public hearing as provided in Section 18.104.10.
2. The Planning Commission and City Council shall review and act on a Design Permit application at a noticed public hearing in compliance with Chapter 18.104 (Common Permit Requirements).

H. Design Review Criteria. When considering Design Permit applications, the City shall evaluate applications to ensure that they satisfy the following criteria, comply with the development standards of the zoning district, conform to policies of the General Plan and any applicable specific plan, and are consistent with any other policies or guidelines the City Council may adopt for this purpose. To obtain Design Permit approval, projects must satisfy these criteria to the extent they apply.

1. **Community Character.** The overall project design including site plan, height, massing, architectural style, materials, and landscaping contribute to Morgan Hill's unique small-town character and distinctive sense of place.

2. **Neighborhood Compatibility.** The project is designed to respect and complement adjacent properties. The project height, massing, and intensity is compatible with the scale of nearby buildings. The project design incorporates measures to minimize traffic, parking, noise, and odor impacts on nearby residential properties.
3. **Pedestrian Environment.** Buildings incorporate design features that support an active public realm and an inviting pedestrian environment.
4. **Privacy.** The orientation and location of buildings, entrances, windows, doors, decks, and other building features minimizes privacy impacts on adjacent properties and provides adequate privacy for project occupants.
5. **Safety.** The project promotes public safety and minimizes opportunities for crime through design features such as property access controls (e.g., placement of entrances, fences), increased visibility and features that promote a sense of ownership of outdoor space.
6. **Massing and Scale.** The massing and scale of buildings complement and respect neighboring structures and correspond to the scale of the human form. Large volumes are divided into small components through varying wall planes, heights, and setbacks. Building placement and massing avoids impacts to public views and solar access.
7. **Architectural Style.** Buildings feature an architectural style that is compatible with the surrounding built and natural environment, is an authentic implementation of appropriate established architectural styles, and reflects Morgan Hill's unique small-town character.
8. **Articulation and Visual Interest.** Building facades are well articulated to add visual interest, distinctiveness, and human scale. Building elements such as roofs, doors, windows, and porches are part of an integrated design and relate to the human scale. Architectural details such as trim, eaves, window boxes, and brackets contribute to the visual interest of the building.
9. **Materials.** Building facades include a mix of natural, high-quality, and durable materials that are appropriate to the architectural style, enhance building articulation, and are compatible with surrounding development.
10. **Parking and Access.** Parking areas are located and designed to minimize visual impacts and support a pedestrian-friendly environment. Safe and convenient connections are provided for pedestrians and bicyclists.
11. **Landscaping.** Landscaping is an integral part of the overall project design, is appropriate to the site and structures, and enhances the surrounding area.
12. **Open Space and Public Places.** Single-family dwellings feature inviting front yards that enhance Morgan Hill's residential neighborhoods. Multi-family residential projects include public and private open space that is attractive,

accessible, and functional. Non-residential development provides semi-public outdoor spaces, such as plazas and courtyards, which help support pedestrian activity within an active and engaging public realm.

13. **Signs.** The number, location, size, and design of signs complement the project design and are compatible with the surrounding context.
 14. **Lighting.** Exterior lighting is an integral part of the project design with light fixtures designed, located, and positioned to minimize illumination of the sky and adjacent properties.
 15. **Accessory Structures.** The design of detached garages, sheds, fences, walls, and other accessory structures relate to the primary structure and are compatible with adjacent properties.
 16. **Mechanical Equipment, Trash Receptacles, and Utilities.** Mechanical equipment, trash receptacles, and utilities are contained within architectural enclosures or fencing, sited in unobtrusive locations, and/or screened by landscaping.
- I. Residential Design Criteria.** In addition to the criteria in Subsection H above, new residential development that requires a Design Permit shall also comply with the design criteria in Chapter 18.36 (Residential Design Criteria).
- J. Findings for Approval.** To approve a Design Permit, the review authority shall make all of the following findings:
1. The proposed project is consistent with the General Plan and any applicable specific plan, area plan, or other design policies and regulations adopted by the City Council.
 2. The proposed project complies with all applicable provisions of the Zoning Code and Municipal Code.
 3. The proposed project substantially complies with all applicable design standards and guidelines contained in the Design Review Handbook.
 4. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).
 5. The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.
 6. The proposed project complies with all applicable Design Review criteria in Subsection H above.
 7. For new residential development, the project complies with commitments made through the Residential Development Control System (RDCS)~~the design criteria in Chapter 18.36 (Residential Design Criteria).~~

18.108.050 – Historic Alteration Permit

See Section 18.60.080 (Historic Alteration Permits).

18.108.060 – Historic Demolition or Relocation Permit

See Section 18.60.090 (Historic Demolition or Relocation Permits).

18.108.070 – Minor Exceptions

► *Note: This section replaces existing Chapter 18.57 (Exceptions) and makes the following changes to the existing Zoning Code: moves specific allowed exceptions to fence height, setbacks, lot coverage, parking, and height moved to chapters; Removes provisions on permit application and conditions that apply to all types of permits and states once in new Chapter 18.104 (Common Permit Requirements); moves existing Section 18.57.020 (Exceptions to height limits), Section 18.57.030 (Exceptions to required setbacks), and 18.57.040 (Exceptions to front yard setback requirements) to their applicable chapters. These exceptions are allowed by right and do not require a Minor Exception approval; allows the Planning Commission to approve minor exceptions for other dimensional standards up to 10 percent of the standard at a noticed public hearing, and excludes certain standards from eligibility for a Minor Exception; establishes new findings for approval in Subsection F (Findings for Approval)*

A. Purpose. A Minor Exception allows for small deviations from development standards to accommodate projects which meet the needs of property owners, are consistent with the purpose of the Zoning Code and General Plan, and do not negatively impact neighboring properties or the community at large.

B. When Allowed.

1. **Permitted Exceptions.** The City may approve a Minor Exception to allow for the following physical development standards:
 - a. Maximum fence and wall height as allowed by Section 18.52.050 (Exceptions to Height Limits)
 - b. Minimum setbacks as allowed by Section 18.56.030 (Setback Exceptions)
 - c. Maximum lot coverage as allowed by Section 18.56.40 (Lot Coverage Exceptions)
 - d. Maximum building height as allowed by Section 18.56.020 (Height Exceptions)
 - e. Number of required on-site parking spaces and dimensional standards for parking spaces, driveways, parking lots, and loading areas as allowed by Section 18.72.060.K (Adjustments to Parking Design and Development Standards).
 - f. Other similar dimensional standards up to ten percent of the required standard with Planning Commission approval.
2. **Excluded Modifications.** The City may not approve Minor Exception for:
 - a. Lot area, width, or depth;

- b. Minimum number of off-street parking spaces;
- c. Maximum residential density; and
- d. Maximum floor area ratio (FAR).

C. Review Authority.

1. The Community Development Director shall review and take action on Minor Modifications applications listed in Paragraph B.1(a) through B.1(e) above.
2. Planning Commission shall review and take action on all other requested exceptions as allowed by Paragraph B.1(f) above.

D. Public Notice and Hearing.

1. Public notice of a pending action on a Minor Exception application reviewed by the Community Development Director shall be provided in compliance with Section 18.104.100 (Notice of Pending Action). The Community Development Director shall hold a public hearing for a Minor Exception application only upon receiving a written request for a public hearing as provided in Section 18.104.100.
2. The Planning Commission shall review and act on a Minor Exception application at a noticed public hearing in compliance with Chapter 18.104 (Common Permit Requirements).

E. Findings for Approval. To approve a Minor Exception application, the review authority shall make all of the following findings:

1. The exception will be compatible with adjacent structures and uses and is consistent with the character of the neighborhood or district where it is located.
2. The exception will not adversely impact neighboring properties or the community at large.
3. The exception is necessary due to unique characteristics of the subject property, structure, or use.
4. The modification is consistent with the purpose of the zoning district, the General Plan, and any applicable specific plan or area plan adopted by the City Council.
5. The exception will not establish an undesirable precedent.

18.108.080 – Sign Permits

See Section 18.88.030.A (Sign Permits).

18.108.090 – Temporary Use Permits

► *Note: This section replaces Article II of existing Chapter 18.54 (Exceptions) and makes the following changes to the existing Zoning Code: removes sections that apply to all types of permits (e.g., application processing and approval) and states once in new Chapter 18.104 (Common Permit Requirements); adds language to new Section I (Cash Deposits) about return of deposit to applicant; moves standards for specific type of temporary uses to Section 18.92.~~440-150~~ (Temporary Uses); adds new Subsection F (Findings for Approval) and Subsection G (Conditions of Approval).*

- A. Purpose.** A Temporary Use Permit is a discretionary permit to allow short term activities that are compatible with surrounding uses and when conducted in compliance with this section and Section 18.92.~~440-150~~ (Temporary Uses and Structures).
- B. When Required.** Types of temporary uses requiring a Temporary Use Permit are identified in Section 18.92.~~440-150~~.C (Temporary Uses Requiring a Use Permit).
- C. Timing of Application.** Applications for a Temporary Use Permit shall be submitted a minimum of 30 days prior to the establishment of the temporary use.
- D. Review Authority.** The Community Development Director shall review and act on all Temporary Use Permit applications.
- E. Public Notice and Hearing.** Public notice and hearing is not required for the Community Development Director's decision on a Temporary Use Permit application.
- F. Findings for Approval.** To approve a Temporary Use Permit, the Community Development Director shall make all of the following findings:
 1. The proposed temporary use is consistent with the General Plan, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.
 2. The location, size, design, and operating characteristics of the proposed temporary use will be compatible with the land uses in the vicinity of the property.
 3. The proposed temporary use will not be detrimental to the public health, safety, and welfare.
 4. The site for the proposed temporary use is adequate in size and shape to accommodate the temporary use without negatively impacting properties adjacent and near to the site.
 5. The site for the proposed temporary use is adequately served by streets and parking areas to accommodate
- G. Conditions of Approval.** The Community Development Director may impose conditions on the approval of a Temporary Use Permit to ensure consistency with this section and the Zoning Code. Such conditions may include, but are not limited to the following:
 1. Provision for temporary parking facilities, including vehicle ingress and egress.

2. Measures to prevent or reduce nuisance factors such as glare, excessive illumination, noise, vibration, smoke, dust, dirt, odors, gases, and heat.
3. Regulation of placement, height, size, and location of structures, facilities, landscaping and equipment, including provision for buffering and separation.
4. Provision for sanitary facilities and for waste collection and disposal.
5. Measures to promote safety and security.
6. Regulation of signs and other attention-gaining devices.
7. Regulation of operating hours and duration of the temporary use.
8. Regulation of the hours and duration of set-up and dismantling activities.
9. Any other conditions that will ensure the operation of the proposed temporary use is conducted in an orderly, efficient manner and in accordance with the intent and purpose of the Zoning Code.

H. Hold Harmless Agreement. As a condition of approval for a Temporary Use Permit, the applicant shall agree in writing to indemnify, defend, and hold harmless the City, its officers, officials, agents, and employees from any liability or claims for damages due to the granting of the Temporary Use Permit or on account of injury to any person, loss of life, or damage to property caused by, or arising out of, activities authorized by the Temporary Use Permit.

I. Cash Deposit.

1. For temporary uses that physically changes, alters and/or improves a site, the applicant shall submit to the City a minimum \$500 cash deposit prior to the issuance of the Temporary Use Permit. The cash deposit is intended to defray the cost of cleaning the site if the applicant fails to leave the property in a presentable and satisfactory condition and to guarantee removal of any temporary uses or structures.
2. After completion of the temporary use, the City shall inspect the site and determine if it has been returned to a presentable and satisfactory condition. The City shall return the cash deposit to the applicant upon finding that the deposit is not needed to clean the site or remove any temporary use of structures.
3. If an applicant does not return the site to a presentable and satisfactory condition, the City may use all or some of the cash deposit to clean the site or remove any temporary use of structures.
4. The Community Development Director may waive this cash deposit requirement upon finding that the requirement would be an unnecessary hardship for the applicant.

18.108.100 – Variances

- *Note: This section replaces existing Chapter 18.60 and makes the following changes to the existing Zoning Code: adds that a Variance is not allowed to allow increased density or deviate from General Plan; removes sections that apply to all types of permits (e.g., applications, appeals, and revocation) and states once in new Chapter 18.104 (Common Permit Requirements).*
-

A. Purpose. A Variance is a discretionary permit that allows for deviation from physical development standards in the Zoning Code. The City may grant a Variance only when the strict application of development standards creates a unique hardship due to unusual circumstances associated with the property.

B. When Allowed.

1. **Allowable Variances.** The City may grant a Variance to allow for deviation from any physical development standard that applies to the subject property. Examples of physical development standards include height, setbacks, open space, floor area ratio (FAR), and off-street parking requirements.
2. **Variances Not Allowed.** A Variance may not be granted to:
 - a. Permit a use other than a use permitted in the zoning district as specified in Part 2 (Zoning District Standards).
 - b. Reduce the minimum lot size for single-family dwellings or minimum site area per dwelling unit requirements for multi-family developments.
 - c. Allow deviation from a requirement of the General Plan.

C. Review Authority. The Planning Commission shall review and take action on all Variance applications.

D. Public Notice and Hearing. The Planning Commission shall review and act on a Variance application at a noticed public hearing in compliance with Chapter 18.104 (Common Permit Requirements).

E. Findings for Approval. To approve a Variance, the Planning Commission shall make all of the following findings:

1. There are unique circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, that do not generally apply to other properties in the vicinity or in the same zone as the subject property.
2. The strict application of the Zoning Code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity or in the same zone as the subject property.
3. The Variance is necessary to preserve a substantial property right possessed by other property in the vicinity or in the same zone as the subject property.

4. The Variance will not be materially detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity or in the same zone as the subject property.
 5. The Variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity or in the same zone as the subject property.
- F. Precedent.** The approval of a Variance shall not set the precedent for the granting of any future Variance.—Each application shall be considered only on its individual merits.

18.108.110 – Zoning Clearance

► *Note: The Zoning Clearance is a new type of permit*

- A. Purpose.** A Zoning Clearance is a ministerial procedure used by the ~~Community Development~~Development Services Department to verify that a proposed use, structure, or business complies with the Zoning Code. Zoning Clearances are processed as part of a building permit, grading permit, or business license application and do not require the submittal of a separate permit application.
- B. When Required.** A Zoning Clearance is required prior to the issuance of any building permit, grading permit, or businesses license.
- C. Review Authority.** The ~~Community Development~~Development Services Department shall take action on all Zoning Clearances.
- D. Public Notice and Hearing.** No public notice or hearing is required for a Zoning Clearance.
- E. Review and Action.** The ~~Community Development~~Development Services Department shall review building permit, grading permit, and business license applications to verify compliance with the Zoning Code. If the project complies with the Zoning Code, the Department shall approve the Zoning Clearance. Department staff shall attach a record of the approved Zoning Clearance to the approved building permit, grading permit, or business license application.

Chapter 18.112 – APPEALS

Sections:

- 18.112.010 – Purpose
- 18.112.020 – Appeal Subjects and Jurisdiction
- 18.112.030 – Filing and Processing of Appeals
- 18.112.040 – Judicial Review

18.112.010 – Purpose

This chapter establishes procedures for the appeal of actions and decisions made by the Planning Commission and the Community Development Director. This chapter supplements general procedures for appeals to the City Council in Municipal Code Chapter 1.20 (Appellate Procedure)- In the case of any conflict between this chapter and Chapter 1.20, this chapter governs.

18.112.020 – Appeal Subjects and Jurisdiction

► *Note: This section replaces existing Section 18.64.020 (Appealable actions—To planning commission), which lists specific decisions that may be appealed to the Planning Commission.*

- A. Community Development Director Decisions.** Any decision or interpretation of the Community Development Director may be appealed to the Planning Commission.
- B. Planning Commission Decisions.** Any decision of the Planning Commission may be appealed to the City Council.

18.112.030 – Filing and Processing of Appeals

► *Note: The following subsections are new: D (Effect of Appeal), E (Report and Scheduling of Hearing), and G (Effective Date of Appeal Decision).*

- A. Eligibility.** Any person may submit an appeal of a decision by the Community Development Director or the Planning Commission. City officials and employees may appeal decisions as affected residents.
- B. Timing of Appeal.** An appeal shall be filed within ten calendar days following the date the decision was rendered, unless a longer appeal period is specified as part of the project approval.
- C. Form of Appeal.**
 - 1. An appeal shall be submitted in writing on an official City application form together with all required application fees.

2. The appeal application shall state the pertinent facts and the basis for the appeal—.
3. The whole decision or part of the decision may be appealed. If an appellant chooses, an appeal may be taken solely from any finding, action, or condition.

D. Effect of Appeal. Once an appeal is filed, any action on the associated project is suspended until the appeal is processed and a final decision is rendered by the review authority.

E. Report and Scheduling of Hearing.

1. When an appeal has been filed, the Development Services Department shall prepare a report on the matter, including all of the application materials in question, and schedule the matter for a public hearing by the appropriate review authority within 90 days of receiving the appeal.
2. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Section 18.104.090 (Notice of Hearings).
3. Any interested person may appear and be heard regarding the appeal.
4. All appeals on a single project shall be considered together at the same hearing.

F. Hearing and Decision.

1. During the appeal hearing, the review authority may take action on the subject of the appeal or any aspect of the appealed project (de novo review). The review authority shall make its own decision supported by findings.
2. The review authority's decision may:
 - a. Affirm, affirm in part, or reverse the action that is the subject of the appeal;
 - b. Adopt additional conditions of approval that address the matter appealed; or
 - c. Remand the appeal for further review, recommendation, or action to the previous review authority.
3. The review authority's action shall be based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal and verify the compliance of the subject of the appeal with the Zoning Code.
4. A matter being heard on appeal may be continued for good cause (e.g., additional California Environmental Quality Act (CEQA) review is required).
5. If the hearing body is unable to reach a decision on the matter appealed, the appeal and the decision of the previous review authority shall remain in effect.

G. Effective Date of Appeal Decision.

1. **City Council's Decision.** A decision of the City Council on an appeal is final and shall be effective on the date the decision is rendered.
2. **Other Decisions.** A decision of the Planning Commission is final and effective after 5:00 p.m. on the tenth calendar day following the date the decision is

rendered, when no appeal to the decision or call for review has been filed in compliance with this chapter. In the event the completion of the appeal period falls on a weekend or holiday, the decision shall become effective after 5:00 pm on the first business day following the completion of the appeal period.

18.112.040 – Calls for Review

► *Note: This section is new.*

A. City Council Review. City Council may call for a review of any decision of the Community Development Director or Planning Commission.

B. Initiation. One or more members of the City Council may initiate a call for review by filing a written request with the Development Services Department within ten days following the date of the decision—. The applicant of the matter called for review shall be notified within ten days of the initiation of a call for review.

C. Effect of Calls for Review.

1. Once a call for review is initiated, any action on the associated project is suspended until a final decision is rendered by the City Council—.
2. The filing of a call for review does not extend the time in which an appeal of a decision may be filed; the normal appeal period will continue to run.
3. Where a call for review only applies to a limited issue, an individual may still appeal all or another part of a decision.

D. Report and Scheduling of Hearing.

1. When a call for review has been initiated, the Development Services Department shall prepare a report on the matter, including all of the application materials in question. The Department shall schedule the matter for a public hearing by the City Council within 90 days of receiving the call for review.
2. Notice of the hearing shall be provided, and the hearing shall be conducted in compliance with Section 18.104.090 (Notice of Hearings).
3. Any interested person may appear and be heard regarding the call for review.

E. Hearing and Decision.

1. During the public hearing, the City Council may consider any issue involving the matter called for review, in addition to the specific grounds for the call for review. The City Council may:
 - a. Affirm, affirm in part, or reverse the action that is the subject of the call for review; or
 - b. Adopt additional conditions of approval that may address issues or concerns.

2. The City Council's action shall be based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the matter called for review, and verify the compliance of the matter with the Zoning Code.
3. Within 60 days of the initial public hearing on the call for review, the City Council shall render its decision on the matter, unless it is continued for good cause (e.g., additional CEQA review is required).
4. If the City Council is unable to reach a decision on the matter under review, the the decision of the previous review authority shall remain in effect.

F. Effective Date of Review Decision. A decision of the City Council is final and shall be effective on the date the decision is rendered.

18.112.050 – Judicial Review

► *Note: This section is new.*

No person may seek judicial review of a City decision on a permit or other matter in compliance with the Zoning Code until all appeals to the Planning Commission and City Council have been exhausted.

CHAPTER 18.114 – ZONING CODE AMENDMENTS

Sections:

- 18.114.010 – Purpose
- 18.114.020 – Initiation
- 18.114.030 – Application
- 18.114.040 – Planning Commission Hearing and Action
- 18.114.050 – City Council Hearing and Action
- 18.114.060 – Findings for Approval
- 18.114.070 – Effective Date
- 18.114.080 – Limitations on Resubmittals after Denial

18.114.010 – Purpose

This chapter establishes procedures for amending the Zoning Code and Zoning Map. All amendments to the Zoning Code shall be processed as set forth in Government Code Section 65853 et seq. and as specified in this chapter.

18.114.020 – Initiation

A. Zoning Map Amendment. A request for an amendment to the Zoning Map may be initiated by:

1. The City Council;
2. The Planning Commission;
3. The Community Development Director; or
4. One or more owners of the property for which the amendment is sought.

B. Zoning Code Text Amendment. A request for an amendment to the text of the Zoning Code may be initiated by the following:

1. The City Council;
2. The Planning Commission;
3. The Community Development Director; or
4. Any resident, property owner, or business owner in the city.

18.114.030 – Application

An application for a Zoning Code Amendment shall be filed and reviewed in compliance with Chapter 18.104 (Common Permit Requirements). The application shall include the information and materials required by the Development Services Department, together with all required application fees. For amendments submitted by a resident, property owner, or

business owner, it is the responsibility of the applicant to provide evidence in support of the findings required by Section 18.114.060 (Findings for Approval).

18.114.040 – Planning Commission Hearing and Action

- A. General.** The Planning Commission shall hold a public hearing on a proposed Zoning Map Amendment and Zoning Code Amendment in compliance with Section 18.104.090 (Notice of Hearings).
- B. Recommendation of Approval.** The Planning Commission may recommend to the City Council the approval or conditional approval of the proposed Zoning Map Amendment or Zoning Code Amendment, based upon the findings specified in Section 18.114.060 (Findings for Approval). The Planning Commission shall forward a written recommendation, and the reasons for the recommendation, to the City Council within 90 days after the date the hearing was closed to the public. A recommendation for approval shall be made by a majority vote of the total membership of the Planning Commission.
- C. Denial.** The Planning Commission may deny the proposed Zoning Code Amendment based upon the findings specified in Section 18.114.060 (Findings for Approval). For a Zoning Map Amendment, if the action of the Planning Commission is to recommend denial, the City Council is not required to take further action on the proposed amendment unless an interested party requests a hearing in writing with the City Clerk within ten days after the Planning Commission recommendation is filed with the City Council.

18.114.050 – City Council Hearing and Action

- A. General.** After receipt of the Planning Commission's recommendation to approve a proposed Zoning Code Amendment or Zoning Map Amendment, the City Council shall hold a public hearing on the proposal in compliance with Section 18.104.090 (Notice of Hearing).
- B. Approval or Denial.** The City Council may approve, conditionally approve, or deny the proposed Zoning Code Amendment or Zoning Map Amendment based upon the findings specified in Section 18.114.060 (Findings for Approval).
- C. Finality of Action.** The action by the City Council shall be made by a majority vote of the total membership of the City Council and shall be final and conclusive.
- D. Referral to Planning Commission.** If the City Council proposes to adopt a substantial modification to the Zoning Code Amendment not previously considered by the Planning Commission, the proposed modification shall be first referred to the Planning Commission for its recommendation.
- E. Failure to Report.** The failure of the Planning Commission to report back to the City Council within 40 days after the reference, or within the time set by the City Council, shall be deemed a recommendation of approval.

18.114.060 – Findings for Approval

The City Council may approve a Zoning Code Amendment or Zoning Map Amendment only if all of the following findings are made:

A. Findings for all Zoning Code and Zoning Map Amendments.

1. The proposed amendment is consistent with the General Plan and any applicable specific plan as provided by Government Code Section 65860.
2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

B. Additional Finding for Zoning Code Text Amendments. The proposed amendment is internally consistent with other applicable provisions of the Zoning Code.

C. Additional Finding for Zoning Map Amendments. The affected site is physically suitable in terms of design, location, shape, size, and other characteristics to ensure that the permitted land uses and development will comply with the Zoning Code and General Plan and contribute to the health, safety, and welfare of the property, surrounding properties, and the community at large.

18.114.070 – Effective Date

A Zoning Code Amendment becomes effective 30 days following the adoption of the ordinance by the City Council.

18.114.080 – Limitations on Resubmittals after Denial

If the City denies a Zoning Code or Zoning Map Amendment, the City may not accept an application for the same or substantially similar Zoning Code or Zoning Map Amendment except in the following cases:

- A.** Upon initiation by the City Council or Planning Commission;
- B.** The application requests a rezoning to a different zoning district than that previously requested; or
- C.** When the previous application was denied because the proposed amendment would not conform with the General Plan, and the General Plan has subsequently been amended in a manner which will allow the proposed amendment.

– This Page Intentionally Left Blank –

Chapter 18.116 – DEVELOPMENT AGREEMENTS

Sections:

- 18.116.010 – Purpose
- 18.116.020 – Applications
- 18.116.030 – Contents of Development Agreements
- 18.116.040 – Consideration of Proposed Development Agreements
- 18.116.050 – Execution and Recordation of Development Agreement
- 18.116.060 – Annual Review
- 18.116.070 – Cancellation or Modification
- 18.116.080 – Miscellaneous Provisions

► *Note: This chapter carries forward existing Chapter 18.80 (Development Agreements) - no substantive changes have been made.*

18.116.010 – Purpose

This chapter establishes procedures for the processing of Development Agreements in compliance with the Government Code Sections 65864 through 65869.5. Development Agreements are intended to:

- A. Strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic costs of development;
- B. Facilitate the development of large multi-phase developments, low income housing developments, and developments involving public service and facilities installations which may require several years to complete; and
- C. Promote orderly growth and development, economic welfare, and adequate circulation, utilities and services.

18.116.020 – Applications

An applicant for a development project may request that the City review a Development Agreement application in accordance with the following procedures. As used in this chapter, “applicant” means a person who has a legal or equitable interest in real property, and who applies for a Development Agreement for a project on that property in accordance with this chapter, and who executes and is bound by the terms of the Development Agreement. "Applicant" also includes a successor in interest to the rights and duties of the original applicant for a Development Agreement.

- A. **Forms and Information.** The applicant shall submit a Development Agreement application on a form prescribed by the Community Development Director. The

Director shall identify submittal requirements for Development Agreement applications, and may require an applicant to submit additional information and supporting data to process the application.

- B. Fees.** At the time of initial filing of the application, the applicant shall pay fees and charges required to file and process the Development Agreement applications and to administer the approved Development Agreements, including annual reviews, in such amounts as established by resolution of the City Council.
- C. Authority to File Application.** An applicant shall have a legal or equitable interest in the real property which is the subject of the proposed Development Agreement. The Community Development Director shall require an applicant to submit proof of his or her interest in the real property and/or of the authority of any agent to act for the applicant. Such proof may include a title report, policy or guarantee, issued by a title company licensed to do business in the state, which demonstrates the required interest of the applicant in the real property.

D. Initial Review of Application.

1. The Community Development Director, or his or her designee, shall review each application to determine whether it is complete. If the application is found to be incomplete, the Community Development Director shall reject the application and, within 45 days after submittal of the application, shall inform the applicant of the items or steps necessary to complete the application.
2. Following completion of the application, the Community Development Director shall determine whether a project is consistent with the General Plan and any applicable specific plan, including the precise development plan and guidelines of a Planned Unit Development (PUD) district, or if the applicant has submitted an application for any necessary amendments to the General Plan, PUD, or specific plan.
3. In addition, the Community Development Director shall determine whether the project meets one of the following criteria:
 - a. The project is a residential development awarded a building allotment pursuant to Chapter 18.78 (Residential Development Control System) of Municipal Code Title 18 (Development Code); or
 - b. The project is a commercial or industrial development and these three criteria are met:
 - (1) The project site is three acres or more in area, and
 - (2) The project proposes to construct or rehabilitate multiple structures on the site, and the total floor area to be constructed or rehabilitated is at least 100,000 square feet, and
 - (3) The project envisions a long-term or phased build-out such that, at the time of application, designs of all buildings and improvements cannot be

reasonably specified in the manner required of use permit applications; or the project is a commercial or industrial development and there are other unique or compelling reasons why the project or the potential benefits to the community would warrant consideration in the form of a Development Agreement.

4. The Community Development Director shall also determine whether the proposed project comports with regulations of the zoning district in which the property lies, including identification of any aspects of the project which would require a variance were the application subject to review and action under the Zoning Code.

18.116.030 – Contents of Development Agreements

Following completion of the application and determination by the Community Development Director that the application meets the criteria described above, the City Manager, or his or her designee, shall provide the applicant with the City's standard Development Agreement. The City Manager, or his or her designee, shall negotiate specific components and provisions of the Development Agreement with the applicant. The negotiated Development Agreement shall comply with the following requirements:

- A. A Development Agreement shall specify its duration; the permitted uses of the subject property; the general location and density or intensity of uses; the general location, maximum height and size of proposed buildings; the relation of the project to adjacent properties; and provisions for reservation or dedication of land for public purposes. It shall contain provisions concerning its transferability to any successor owners of the property.
- B. A Development Agreement shall contain an indemnity clause requiring the applicant to indemnify, defend, and hold the City, its officers, officials, agents, and employees harmless against claims arising out of or related to the actions of applicant in connection with the application or the development process, including all legal fees and costs.
- C. A Development Agreement should clearly outline the benefits provided to the City from entering into the Development Agreement. Such benefits may include, but are not limited to:
 1. Construction of public facilities beyond those required as a condition of approval;
 2. Covenants to operate and maintain the private project at higher levels than would otherwise be required;
 3. Proposals to achieve General Plan goals not directly associated with the private project; and
 4. Other proposals which, in the judgment of the Planning Commission and City Council, provide public benefits sufficient to justify a Development Agreement.

- D. A Development Agreement should include requirements for construction and maintenance of onsite and off-site improvements or payment of fees in lieu of such dedications or improvements.
- E. A Development Agreement should include any conditions and restrictions imposed by the City with respect to the project, including conditions and restrictions proposed in the environmental review document prepared under the California Environmental Quality Act (CEQA), in order to eliminate or mitigate potential adverse environmental impacts of the project.
- F. A Development Agreement may provide that the project be constructed in specified phases, and ~~shall~~may state construction shall commence within a specified time, and that the project or any phase thereof shall be completed within a specified time.
- G. A Development Agreement shall be a contract that is negotiated and voluntarily entered into by City and applicant and may contain any additional or modified conditions, terms or provisions agreed upon by the parties.
- H. A Development Agreement may also include conditions, terms, restrictions, and requirements for subsequent discretionary actions but does not eliminate the applicant's responsibility to obtain all required land use approvals.
- I. If a Development Agreement requires applicant financing of necessary public facilities, it may include terms relating to subsequent reimbursement over time for such financing.
- J. A Development Agreement may include any other provisions necessary to guarantee performance of obligations stated in the agreement.
- K. A Developments Agreements~~s~~, or any part of a Development Agreement, may be subject to subsequent condemnation proceedings by the City.

18.116.040 – Consideration of Proposed Development Agreements

- A. **Negotiations.** The City Manager shall negotiate the specific components and provisions of the Development Agreement on behalf of the City.
- B. **Planning Commission Consideration.** Following negotiation of the Development Agreement, the Planning Commission shall consider the Development Agreement for recommendation to the City Council. Prior to making a recommendation for City Council action on a proposed Development Agreement, the Planning Commission shall hold a noticed public hearing to consider comments on the Development Agreement from other advisory bodies and from members of the public. The Planning Commission public hearing may, but need not, be held concurrently with the public hearing(s) on other land use approvals for the project. ~~The City Manager shall make a draft of the proposed Development Agreement available for public review at least fifteen days before the Planning Commission's public hearing on the proposed Development Agreement.~~

C. Recommendation by Planning Commission. Within 30 days after closing its public hearing, the Planning Commission shall make its recommendation in writing to the City Council. The recommendation shall include the Planning Commission's determination and supporting reasoning as to whether or not the proposed Development Agreement:

1. Is consistent with the goals, objectives, policies, general land uses and programs specified in the General Plan and any applicable specific plan;
2. Is compatible with the uses authorized in the zoning district in which the property is located;
3. Duly considers City mitigation programs in effect at the time of execution of the agreement;
4. Will be non-detrimental to the public health, safety and general welfare of persons residing or working in the neighborhood and to property and improvements in the neighborhood;
5. Complies with the provisions of the California Environmental Quality Act; and
6. Will not adversely affect the orderly development of property or the preservation of property values.

D. City Council Public Hearing. The City Council shall hold a noticed public hearing prior to adoption of a Development Agreement. The City Council public hearing may, but need not, be held concurrently with the public hearing(s) on other land use approvals for the project.

E. Decision by City Council.

1. After the City Council completes the public hearing, it may accept, reject or conditionally accept the recommendation of the Planning Commission, or in the event the Planning Commission has failed to make a recommendation, the City Council shall approve, disapprove or conditionally approve the Development Agreement. The City Council may, but need not, refer matters not previously considered by the Planning Commission during its hearing back to the Planning Commission for report and recommendation. The Planning Commission may, but need not, hold a public hearing on matters referred back to it by the City Council.
2. The City Council shall not approve a proposed Development Agreement unless it finds that its provisions are consistent with the General Plan and any applicable specific plan. This requirement may be satisfied by a finding that the provisions of a proposed Development Agreement are consistent with proposed General Plan or specific plan amendments which are to be adopted concurrently with the approval of the proposed Development Agreement. A finding of consistency may be made if, considering the General Plan and/or specific plan as a whole and balancing competing provisions as appropriate, the City determines that the proposed Development Agreement does not conflict with the provisions of the General Plan and/or specific plan.

3. A proposed Development Agreement shall be executed by the applicant before it is placed before the City Council for consideration at a public hearing.
- F. Approval of Development Agreement.** The City Council has the exclusive authority to approve the Development Agreement. Approval of a Development Agreement shall be by ordinance.
- G. Failure to Receive Notice.** The failure of any person to receive notice required by law or this chapter shall not affect the authority of the City to enter into, modify or terminate a Development Agreement, nor invalidate a Development Agreement entered into by the City under this chapter.

18.116.050 – Execution and Recordation of Development Agreement

- A.** Within ten days after the ordinance approving the Development Agreement takes effect, the City Manager shall execute the Development Agreement on behalf of the City, and the City clerk shall record the Development Agreement with the Santa Clara County Recorder.
- B.** If the parties to the agreement or their successors in interest amend or cancel the Development Agreement, or if the City terminates or modifies the Development Agreement for failure of the applicant to fully comply with the provisions of the Development Agreement, the City clerk shall record notice of such action with the Santa Clara County Recorder.

18.116.060 – Annual Review

- A. Time for and Initiation of Review.**
1. The City Manager shall review each approved Development Agreement at least once a year, at which time the applicant shall demonstrate compliance with the provisions of the Development Agreement.
 2. The applicant shall initiate the required annual review by submitting a written request at least sixty days prior to the review date specified in the Development Agreement. The applicant shall also provide evidence as determined necessary by the City Manager to demonstrate compliance with the Development Agreement. The burden of proof by substantial evidence of compliance is upon the applicant.
- B. Finding of Compliance.** If the City Manager, on the basis of substantial evidence, finds compliance by the applicant with the Development Agreement, the City Manager shall issue a finding of compliance, which shall be in recordable form and may be recorded with the County Recorder after conclusion of the review.
- C. Finding of Noncompliance.**
1. If the City Manager finds the applicant has not complied with the provisions of the Development Agreement, the City Manager may issue a finding of noncompliance which may be recorded by the City with the County Recorder after it becomes

final. The City Manager shall specify in writing to the applicant the respects in which applicant has failed to comply, and shall set forth terms of compliance and specify a reasonable time for the applicant to meet the terms of compliance.

2. If applicant does not comply with any terms of compliance within the prescribed time limits, the Development Agreement shall be subject to termination or modification pursuant to Section 18.116.070.B of this chapter.

D. Appeal of Determination. Within ten days after issuance of a finding of compliance or a finding of noncompliance, any interested person may file a written appeal of the finding with the City Council. The appellant shall pay fees and charges for the filing and processing of the appeal in amounts established by the City Council. The appellant shall specify the reasons for the appeal. The issuance of a finding of compliance or finding of noncompliance by the City Manager and the expiration of the appeal period without appeal, or the confirmation by the City Council of the issuance of the finding on such appeal, shall conclude the review for the applicable period and such determination shall be final.

18.116.070 – Cancellation or Modification

- A. Cancellation or Modification by Mutual Consent.** Any Development Agreement may be canceled or modified by mutual consent of the parties following compliance with the procedures specified in Section 18.116.040 of this chapter. A Development Agreement may also specify procedures for administrative approval of minor amendments by mutual consent of the applicant and the City Manager.
- B. Termination or Modification after Finding of Noncompliance.** If a finding of noncompliance does not include terms of compliance, or if applicant does not comply with the terms of compliance within the prescribed time limits, the City Manager may refer the Development Agreement to the City Council for termination or modification. The City Council shall conduct a public hearing. The burden of proof shall be on the applicant to establish at the public hearing that the Development Agreement has been complied with. After the public hearing, the City Council may terminate the Development Agreement, modify the finding of noncompliance, or rescind the finding of noncompliance, and issue a finding of compliance.
- C. Rights of the Parties after Cancellation or Termination.** In the event that a Development Agreement is canceled or terminated, all rights of the applicant, property owner or successors in interest under the Development Agreement shall terminate. If a Development Agreement is terminated following a finding of noncompliance, the City may, in its sole discretion, determine to return any and all benefits, including reservations or dedications of land, and payments of fees, received by the City.

18.116.080 – Miscellaneous Provisions**A. Effect of Development Agreement.**

1. Unless otherwise specified in the Development Agreement, the City's rules, regulations and official policies governing permitted uses of the property, density and design, and improvement standards and specifications applicable to development of the property shall be those City rules, regulations and official policies in force on the effective date of the Development Agreement. The applicant shall not be exempt from otherwise applicable City ordinances or regulations pertaining to persons contracting with the City.
2. A Development Agreement shall not prevent the City, in subsequent actions applicable to the property, from applying new rules, regulations and policies which do not conflict with those rules, regulations and policies applicable to the property as set forth in the Development Agreement. A Development Agreement shall not prevent the City from denying or conditionally approving any subsequent land use permit or authorization for the project on the basis of such existing or new rules, regulations, and policies.
3. Unless otherwise specified in the Development Agreement, a Development Agreement shall not exempt the applicant from obtaining future discretionary land use approvals.

B. Rules Affecting Development Agreement. In the event that any regulation or law of the State of California or the United States, enacted or interpreted after a Development Agreement has been entered into, prevents or precludes compliance with one or more provisions of the Development Agreement, then the Development Agreement may be modified or suspended in the manner and pursuant to the procedures specified in the Development Agreement as may be necessary to comply with such regulation or law.

C. Enforcement of a Development Agreement. The procedures for enforcement, amendment, modification, cancellation or termination of a Development Agreement specified in this section and in California Government Code Section 65865.4 are non-exclusive. A Development Agreement may be enforced, amended, modified, canceled or terminated by any manner otherwise provided by law or by the provisions of the Development Agreement.

D. Public Hearings – Generally. Any public hearing held pursuant to this chapter shall be conducted as nearly as possible in accordance with the procedural standards prescribed in Chapter 18.104 (Common Permit Procedures) and the Government Code. Each person interested in the matters shall be given an opportunity to be heard. The applicant has the burden of proof at the public hearing on the proposed Development Agreement. No action, inaction or recommendation regarding a Development Agreement shall be set aside due to any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to the Development Agreement unless the error is prejudicial and the complaining party sustained and suffered actual

substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is no presumption that an error is prejudicial or that injury was done if error is proven.

E. Judicial Review – Time Limitation.

1. Any judicial review of an ordinance approving or amending a Development Agreement shall be by writ of mandate pursuant to Section 1085 of the California Code of Civil Procedure. Judicial review of any City action taken pursuant to this chapter, other than ~~initial~~ approval or amendment of a Development Agreement, shall be by writ of mandate pursuant to Section 1094.5 of the California Code of Civil Procedure.
2. Any action or proceeding to attack, review, set aside, void or annul any decision of the City taken pursuant to this chapter shall not be maintained by any person unless the action or proceeding is commenced within 90 days after the effective date of the decision.

F. Irregularity in Proceedings. No action, inaction or recommendation regarding a proposed Development Agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to the petition, application, notice, finding, record, hearing, report, recommendation or any matter of procedure whatever, unless the error complained of was prejudicial and that by reason of the error, the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is not a presumption that an error is prejudicial or that injury was done if an error is shown.

– This Page Intentionally Left Blank –

Chapter 18.118 – REASONABLE ACCOMMODATIONS

Sections:

- 18.118.010 – Purpose
- 18.118.020 – When Allowed
- 18.118.030 – Review Authority
- 18.118.040 – Public Notice of Process Availability
- 18.118.050 – Application Requirements
- 18.118.060 – Review Procedure
- 18.118.070 – Criteria for Decision
- 18.118.080 – Conditions of Approval
- 18.118.090 – Appeals

► *Note:* This chapter is new as required by federal and state law.

18.118.010 – Purpose

This chapter establishes a procedure for requesting reasonable accommodation in land use, zoning and building regulations, to provide persons with disabilities equal access to housing consistent with the Federal Fair Housing Act (42 U.S.C. Section 3601 et seq.) and the California Fair Employment and Housing Act (Government Code Section 12955 et seq.). A reasonable accommodation is typically an adjustment to physical design standards to accommodate the placement of wheelchair ramps or other exterior modifications to a dwelling in response to the needs of a disabled resident.

18.118.020 – When Allowed

- A. Eligible Applicants.** A request for reasonable accommodation may be made by any person with a disability, their representative, or any entity, when the application of the Zoning Code or other land use or building regulation, policy, or practice acts as a barrier to fair housing opportunities.
- B. Definition.** A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having this type of impairment, or anyone who has a record of this type of impairment.
- C. Eligible Request.** A request for reasonable accommodation may include a request for a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers.

18.118.030 – Review Authority

- A. Community Development Director.** The Community Development Director shall take action on reasonable accommodation applications unless- the application is -filed for concurrent review with an application for discretionary review by the Planning Commission or City Council.
- B. Other Review Authority.** If a reasonable accommodation application is submitted concurrently with a permit application that will be reviewed by the Planning Commission or City Council, the reasonable accommodation application shall be reviewed by the Planning Commission or City Council.
- C. Referral to Planning Commission.** The Community Development Director may refer any reasonable accommodation application to the Planning Commission for review and final decision.

18.118.040 – Public Notice of Process Availability

Notice of the availability of the reasonable accommodation process shall be publicly displayed at City Hall. Forms for requesting reasonable accommodation shall be available to the public at the ~~Community Development~~Development Services Department at City Hall.

18.118.050 – Application Requirements

- A. Application.** A request for reasonable accommodation shall be submitted on an application form provided by the ~~Community Development~~Development Services Department together -with applicable fees required by the Planning Fee Schedule-~~;~~. The application must include the following:
 1. The name and address of the individual(s) requesting reasonable accommodation;
 2. The name and address of the property owner(s);
 3. The address of the property for which the accommodation is requested;
 4. Description of the requested accommodation and the regulations, policy or procedures for which accommodation is sought; and
 5. Reason that the requested accommodation may be necessary to enable the individual(s) with the disability to use the dwelling.
- B. Review with Other Land Use Applications.** If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval (e.g., Conditional Use Permit, Design Permit), then the applicant shall file the reasonable accommodation application materials together for concurrent review with the application for discretionary approval.
- C. Application Timing.** A request for reasonable accommodation may be filed at any time that the accommodation is necessary to ensure equal access to housing. A

reasonable accommodation does not affect an individual's obligation to comply with other applicable regulations not at issue in the requested accommodation.

- D. Application Assistance.** If an individual needs assistance in making the request for reasonable accommodation, the City will provide assistance to ensure that the process is accessible to the individual.

18.118.060 – Review Procedure

A. Director Review.

1. The Community Development Director shall make a written determination within 45 days and either grant, grant with modifications, or deny a request for reasonable accommodation.
2. If necessary to reach a determination on the request for reasonable accommodation, the Community Development Director may request further information from the applicant consistent with fair housing laws. In the event that a request for additional information is made, the 45-day period to issue a decision is stayed until the applicant submits the requested information.

- B. Other Review Authority.** The determination on whether to grant or deny the request for reasonable accommodation submitted concurrently with a discretionary permit application shall be made by the Planning Commission or City Council in compliance with the review procedure for the discretionary review.

18.118.070 – Criteria for Decision

The Community Development Director or the reviewing authority, as applicable, shall make a written determination and either approve, approve with modifications, or deny a request for reasonable accommodation based on consideration of all of the following factors:

- A.** Whether the housing which is the subject of the request will be used by an individual with disabilities protected under fair housing law.
- B.** Whether the request for reasonable accommodation is necessary to make housing available to an individual with disabilities protected under fair housing law.
- C.** Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the City.
- D.** Whether the requested reasonable accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning.
- E.** Potential impacts on surrounding uses.
- F.** Physical attributes of the property and structures.
- G.** Availability of other reasonable accommodations that may provide an equivalent level of benefit.

18.118.080 – Conditions of Approval

In approving a request for reasonable accommodation, the reviewing authority may impose conditions of approval to ensure that the reasonable accommodation will comply with the criteria required by Section 18.118.070 (Criteria for Decision).

18.118.090 – Appeals

Reasonable accommodation decisions may be appealed consistent with Chapter 18.112 (Appeals).~~—~~ If an applicant needs assistance in filing an appeal on an adverse decision, the City will provide assistance to ensure that the appeals process is accessible.

Chapter 18.120 – ENFORCEMENT

Sections:

- 18.120.010 – Purpose
- 18.120.020 – Violations
- 18.120.030 – Permits and Approvals
- 18.120.040 – Enforcement Responsibility
- 18.120.050 – Enforcement Procedures
- 18.120.060 – Continuing Violations
- 18.120.070 – Remedies
- 18.120.080 – Remedies are Cumulative

18.120.010 – Purpose

This chapter establishes procedures to ensure compliance with the Zoning Code, obtain corrections for violation of the Zoning Code, and impose penalties for violations. These procedures supplement code enforcement provisions in Municipal Code Title 1 (General Provisions).

18.120.020 – Violations

Any use, structure, or activity that is established or maintained contrary to the requirements of the Zoning Code shall be unlawful and a violation of the Zoning Code, shall constitute a public nuisance, and shall be subject to the remedies and penalties provided for in this chapter.

18.120.030 – Permits and Approvals

All departments, officials, and public employees of the City assigned the authority to issue permits or other forms of authorization shall comply with the Zoning Code.

- A. Permits in Conflict with the Zoning Code.** Permits and other forms of authorizations that would be in conflict with the Zoning Code shall not be issued.
- B. Permits Deemed Void.** Any permits or other form of authorizations issued in conflict with the Zoning Code shall be void and of no effect.

18.120.040 – Enforcement Responsibility

► *Note: This section replaces existing Section 18.68.010 (Responsibility for Enforcement).*

- A. **Building ~~Inspector~~Official.** The Building ~~Inspector~~Official shall have primary responsibility for enforcing provisions of the Zoning Code pertaining to the erection, construction, reconstruction, moving, conversion, or alteration of any structure.
- B. **Community Development Director.** The Community Development Director shall have primary responsibility for enforcing all other provisions of this Code not listed in subsection A above. Other officers of the City as authorized by the Community Development Director shall share responsibility for enforcing provisions of this Code.

~~18.120.050 – Enforcement Procedures~~

~~► *Note: This section is new.*~~

~~Procedures for notification of a code violation, recording of notice, and abatement hearings shall occur consistent with Municipal Code Chapter 1.18 (Abatement of Nuisances) and Chapter 1.19 (Administrative Citations and Fines).~~

~~18.120.060 – Continuing Violations~~

~~► *Note: This section is new.*~~

~~After receiving notice of the violation from the City, each day that a violation remains uncorrected shall constitute a separate violation of the Zoning Code.~~

~~18.120.070-18.120.050 – Remedies~~

► *Note: This section replaces existing Section 18.68.030 (Violation – Action by City Attorney).*

The City may choose to undertake any one or all of the following legal actions, in addition to all other remedies available, to correct and/or abate a violation of the Zoning Code.

- A. **Revoke Permit.** The City may revoke a permit or other form of authorization consistent with Section 18.104.240 (Permit Revocation).
- B. **Withhold Permit.** The City may deny or withhold permits or other forms of authorization.
- C. **Approve Permit with Conditions.** The City may approve a permit or other form of authorization subject to the condition that the violation be corrected.
- D. **Stop Work.** With or without revoking permits, the City may stop work in whole or in part on any building or structure.

- ~~**E. Administrative Citations and Fines.** The City may issue administrative citations and impose administrative fines as provided in Municipal Code Chapter 1.19 (Administrative Citations and Fines).~~
- ~~**F. Injunction.** The City may seek an injunction or other equitable relief in court to stop the violation.~~
- ~~**G. Abatement.** The City may seek a court order in the nature of mandamus, abatement, injunction, or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.~~
- ~~**H. Criminal Penalties.** The City may prosecute a person responsible for a violation and upon conviction such person shall be punishable by the applicable fines specified in Municipal Code Chapter 1.24 (General Penalty).~~
- ~~**I. Other Remedies.** The City may exercise any and all other remedies and enforcement powers granted by law.~~

18.120.080-18.120.060 – Remedies are Cumulative

► *Note: This section is new.*

The remedies and enforcement powers established in this chapter shall be cumulative, and the City may exercise them in any order or combination, at any time.

– This Page Intentionally Left Blank –

PART 5

Glossary

Chapter 18.124 – Land Use Definitions.....	124-1
18.124.010 – Purpose	
18.124.020 – Residential Land Uses	
18.124.030 – Public and Quasi-Public Uses	
18.124.040 – Commercial Uses	
18.124.050 – Industrial Uses	
18.124.060 – Transportation, Communication, and Utility Uses	
18.124.070 – Agriculture and Natural Resource Uses	
 Chapter 18.128 – General Terms.....	 128-1
18.128.010 – Purpose	
18.128.020 – Definitions	

– This Page is Intentionally Blank –

Chapter 18.124 – LAND USE DEFINITIONS

Sections:

18.124.010 – Purpose

18.124.020 – Residential Land Uses

18.124.030 – Public and Quasi-Public Uses

18.124.040 – Commercial Uses

18.124.050 – Industrial Uses

18.124.060 – Transportation, Communication, and Utility Uses

18.124.070 – Agriculture and Natural Resource Uses

18.124.010 – Purpose

This chapter defines the land uses permitted and conditionally permitted in within each zoning district as specified in Part 2 (Zoning Districts) of the Zoning Code.

18.124.020 – Residential Land Uses

- A. Accessory Dwelling Units.** A self-contained living unit, either attached to or detached from, and in addition to, the primary residential unit on the parcel.
- B. Agricultural Labor Accommodations.** Housing for transient labor, such as labor cabins or camps, where incidental to a permitted agricultural use.
- C. Caretaker Quarters.** A residence that is accessory to a nonresidential primary use of the site, where needed for security, or 24-hour care or supervision.
- D. Duets.** A residential structure that contains two independent dwelling units, each with its own entrance that are separated by a property line along a shared building wall with each unit located on a separate lot.
- E. Duplexes.** A single residential structure on one lot that contains two independent dwelling units, each with its own entrance.
- F. Group Housing.** Shared living quarters without separate kitchen or bathroom facilities for each room or unit, offered for rent for permanent or semi-transient residents on a weekly or longer basis. Includes rooming and boarding houses, single-room occupancy housing, dormitories, and other types of organizational housing, and extended stay hotels intended for long-term occupancy (30 days or more). Excludes “hotels and motels” and “residential care facilities.”
- G. Live/Work Units.** A building or space within a building that is used jointly for commercial and residential purposes.

- H. ~~Mixed Use Residential.~~ A building with upper floor residential use above ground floor non-residential use.** **Mixed Use Residential.** A development project with both residential and commercial/office uses which are either 1) located together in a single building; or 2) in separate buildings on a single site of one or more contiguous properties.
- I. Multi-Family Dwellings.** A building that contains three or more dwelling units, with each unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. Includes multi-family senior housing limited to occupancy by persons 55 years of age or older for residents who are independent and do not require assistance with everyday living (“independent living”).
- J. Nursing Homes and Long-Term Care.** Establishments that provide twenty-four-hour medical, convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves, and is licensed as a skilled nursing facility by the State of California. Excludes “residential care facilities” and “senior housing.”
- K. Residential Care Facilities.**
1. A state licensed facility providing twenty-four-hour-a-day nonmedical residential living accommodations pursuant to the Uniform Building, Housing and Fire Codes. Care and supervision shall include, but not be limited to, any one or more of the following activities provided by a person or facility to meet the needs of the residents:
 - a. Assistance in dressing, grooming, bathing and other personal hygiene;
 - b. Assistance with taking medication and central storing and distribution of medications;
 - c. Arrangement of and assistance with medical and dental care;
 - d. Maintenance of house rules for the protection of residents;
 - e. Supervision of resident schedules and activities;
 - f. Maintenance and supervision of resident monies or property;
 - g. Monitoring food intake and special diets.
 2. Individual sleeping quarters with no more than half kitchens, a common dining facility which provides a sit down dining service at two distinct times per day and recreational features such as a lounge or recreation room shall be provided. Safety features designed for the needs of the elderly, such as emergency call systems which are linked to on-site staff which are available twenty-four hours per day, grab bars and handrails, special door hardware, cabinets, appliances and doorways designed to accommodate wheel chairs, and social services for residents which must also include at least three of the following: transportation services provided by the

facility, housekeeping, facility provided linen/laundry, and organized social and recreational activities. Such facilities may have up to two manager's units which contain full kitchen facilities. Residential care facility includes, but is not limited to, health facilities as defined in California Health and Safety Code (H&SC) Section 1250 et seq., Community Care Facilities (H&SC Section 1500 et seq.), Residential Care Facilities for the Elderly (H&SC Section 1569 et seq.), or Facilities for the Mentally Disordered or otherwise handicapped defined in California Welfare and Institutions Code (W&I Code Section 5000 et seq.), alcoholism or drug abuse recovery or treatment facilities (H&SC Section 11834.02), and other similar care facilities.

3. Supportive or transitional housing that provides medical care or services patients whose need for care or supervision exceeds a certain threshold (Section 1505 of the Health and Safety Code) shall obtain a license to operate from the State or the facility will be considered an apartment requiring participation in the city's residential development control system (RDCS).

- L. Residential Care Facilities, Small.** Any state-authorized, certified or licensed family-care home, foster home, or group home serving six or fewer mentally disordered or otherwise handicapped persons, or dependent and neglected children or the elderly, when such homes provide care on a twenty-four-hour a day basis.
- M. Single-Family Dwellings.** A residential structure designed for occupancy by one household. A single-family dwelling provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. Includes all construction types, including prefabricated and manufactured homes.
- N. Single-Family Attached Dwellings.** Three or more single-family dwelling units connected by common walls along the side property lines, sometimes called a townhouse or row house. Excludes “duplexes” and “duets.”
- O. Single-Family Detached Dwellings.** A detached building that contain one single-family dwelling.

18.124.030 – Public and Quasi-Public Uses

- A. Cemeteries.** Establishments primarily engaged in operating sites or structures reserved for the interment of human or animal remains, including crematories, mausoleums, burial places, columbariums, and memorial gardens.
- B. Colleges and Trade Schools.** Institutions of higher education providing curricula of a general, religious or professional nature, typically granting recognized degrees. Includes junior colleges, business and computer schools, management training, vocational education, and technical and trade schools.
- C. Community Assembly.** Facilities that provides space for public or private meetings or gatherings. Includes places of worship, community centers, meeting space for clubs and

other membership organizations, social halls, union halls, banquet centers, and other similar facilities.

- D. Cultural Institutions.** Public or nonprofit institutions that engages in cultural, scientific, and/or educational enrichment. Includes libraries, museums, performing art centers, aquariums, environmental education centers, non-profit art centers and galleries, botanical gardens, and other similar uses.
- E. Day Care Centers.** Facilities that provides non-medical care and supervision of minors or adults for periods of less than 24 hours. Includes nursery schools, day nurseries, child care centers, infant day care centers, cooperative day care centers, adult day programs, and similar uses.
- F. Emergency Shelters.** Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.
- G. Government Offices.** Places of employment occupied by governmental agencies and their employees. Includes offices for administrative, clerical, and public contact functions but excludes corporation yards, equipment service centers, and similar facilities that primarily provide maintenance and repair services and storage facilities for vehicles and equipment
- H. Home Day Care.** Facilities providing daytime supervision and care for children where the provider permanently resides.
 - 1. **Home Day Care, Large.** A home day care facility supervising 9 to 14 children.
 - 2. **Home Day Care, Small.** A home day care facility supervising 8 children or less.
- I. Hospitals.** Facilities providing medical, psychiatric, or surgical services for sick or injured persons primarily on an in-patient basis, and including ancillary facilities for outpatient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees, or visitors.
- J. Instructional Services.** Establishments that offer specialized programs in personal growth and development. Includes music studios, drama schools, dance academies, art schools, tutoring schools, and instruction in other cultural and academic pursuits.
- K. Medical Offices and Clinics.** Facilities where medical, mental, dental, or other personal health services are provided on an outpatient basis using specialized equipment. Includes offices for physicians, dentists, and optometrists, diagnostic centers, blood banks and plasma centers, and emergency medical clinics offered exclusively on an out-patient basis. May include educational aspects such as medical instruction and/or training as well as house a laboratory, radiology/imaging, pharmacy, rehabilitation and other similar services as accessory uses. Excludes “hospitals.”
- L. Parks and Recreational Facilities.** Non-commercial facilities that provide open space and/or recreational opportunities to the public. Includes parks, community gardens,

community centers, passive and active open space, wildlife preserves, playing fields, tennis courts, swimming pools, gymnasiums, and other similar facilities.

- M. Public Safety Facilities.** Facilities operated by a governmental agency for the purpose of protecting public safety. Includes fire stations and other fire-fighting facilities, police stations, public ambulance dispatch facilities, and other similar uses.
- N. Schools.** Educational institutions providing instruction to minors as required by the California Education Code. Includes elementary, junior high, and high schools.
1. **School, Public.** A school operated or under control of the Morgan Hill Unified School District or Santa Clara County Board of Education. Includes public charter schools.
 2. **School, Private.** A school operated or under control of an entity other than the Morgan Hill Unified School District or Santa Clara County Board of Education.
- O. Social Services.** Establishments providing assistance and aid to those persons requiring counseling and/or treatment for psychological problems, addictions, learning disabilities, and physical disabilities or to those persons in need of jobs, food, or clothing. Excludes residential care on an overnight, short-term, or long-term basis.

18.124.040 – Commercial Uses

- A. Adult Businesses.** See Section 18.92.020 (Adult Businesses) for definitions related to adult businesses.
- B. Animal-Related Uses.**
1. **Animal Boarding.** A facility for keeping, boarding, training, breeding or maintaining four or more dogs, cats, or other household pets not owned by the facility owner or operator. Includes kennels, pet day care, and animal shelters. Excludes “veterinarian clinics and hospitals” and pet shops that provide grooming services.
 2. **Equestrian Centers.** A commercial or private facility created and maintained for accommodating, training or competing horses. May include barn or stables, riding halls, and riding academies.
 3. **Veterinarian Clinics and Hospitals.** Office and medical treatment facilities used by veterinarians where animals receive medical and surgical treatment, including large and small animal veterinary clinics and animal hospitals. Grooming and temporary boarding of animals for thirty days is included if incidental to the hospital use. Excludes “animal boarding” and pet stores (“retail sales”).
- C. Banks and Financial Institutions.** A financial institution providing retail banking services. Includes only those institutions serving walk-in customers or clients, including federally-chartered banks, savings associations, industrial loan companies, and credit unions providing retail banking services to individuals and businesses. This classification expressly excludes payday lending businesses or check cashing businesses, and as a

result, the establishment, expansion, or relocation of such businesses is prohibited. The term "payday lending business" means retail businesses owned or operated by a "licensee" as that term is defined in California Financial Code section 23001(d). The term "check cashing business" means a retail business owned or operated by a "check casher" as that term is defined in California Civil Code section 1789.31.

- D. Business Support Services.** An establishment entirely within a building, providing other businesses and residents with goods and services including maintenance, repair and service, testing, and rental. Includes businesses providing services related to advertising and mailing; building maintenance; equipment rental and leasing; catering; party rentals; janitorial supplies and services; property management; messenger, courier, postal and delivery services; taxicab and limousine operations; ambulance services; nonemergency medical transport; office supply; packaging and labeling; photofinishing; photocopying, printing and blueprinting; security services; and knowledge-based computer software development and technical support.
- E. Cinemas and Theaters.** Facilities for indoor display of films and for live dramatic, musical, and artistic performances. Excludes theatres associated with "adult businesses."
- F. Commercial Recreation.** A facility providing recreation, amusement, and entertainment services for a fee or admission charge.
 - 1. **Commercial Recreation, Indoor.** A commercial recreation facility primarily located indoors. Includes gymnasiums, health clubs, bowling alleys, indoor tennis and racquet courts, indoor swimming pools, laser tag and other similar games, indoor batting cages, electronic arcade games, pool halls, and other similar uses. Excludes "instructional services."
 - 2. **Commercial Recreation, Outdoor.** A commercial recreation facility primarily located outdoors. Includes batting cages, swimming pools, driving ranges, tennis courts, golf courses, miniature golf, and other similar uses.
- G. Drive-Through and Drive-in Facilities.** A facility where a customer, either by the design of physical facilities or by the service procedures offered, is served while remaining seated within a vehicle. Includes drive-through restaurants, coffee shops, pharmacies, banks, automatic car washes, and other similar land uses. Drive-through and drive-in facilities must be associated with a permitted use that has received all required permits and approvals (e.g., a Conditional Use Permit for a Fast Food Restaurant Use).
- H. Eating and Drinking Uses.**
 - 1. **Bars and Nightclubs.** Businesses devoted to serving alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. Includes cocktail lounges, lounges, taverns, and other similar uses.
 - 2. **Restaurants, Fast Food.** An establishment whose principal business is the sale of prepared or quickly prepared foods, frozen desserts, or beverages in disposable

containers and wrappers to the customer for consumption either within the restaurant building or for carryout. Customers pay before food is consumed. The fast food restaurant may include a drive-thru window and may allow consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, at other facilities on the premises outside the restaurant building or at ancillary seating areas provided within the restaurant building. Fast food restaurants may include but are not limited bakeries, ice cream parlors, coffee and juice shops, pizza parlors, sandwich shops, and delicatessens.

3. Restaurants, Sit-Down.

- a. An establishment with kitchen facilities whose principal business is the sale of foods, desserts, or beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes one or both of the following characteristics:
 - (1) Customers, normally provided with an individual menu, are served their food, desserts, or beverages on reusable tableware by a restaurant employee at the same table or counter at which said items are consumed.
 - (2) A cafeteria-type operation where food, desserts, or beverages generally are consumed within the restaurant building.
 - b. A facility shall be classified as a sit-down restaurant only if it receives at least 50 percent of its gross revenues from serving food. A sit-down restaurant may include a bar serving alcoholic beverages and may have a "take-out" component which does not include a drive through component (unless a Conditional Use Permit has been obtained), provided that the restaurant's on-site food sales account for more than 50 percent of its gross revenues.
- 4. Tasting Rooms.** A facility allowing public tasting of wine, beer, and/or other alcoholic beverages with on-site and off-site retail sales directly to the public. The tasting facility must be directly affiliated with at least one commercial winery, brewery, or distillery located within Santa Clara County and licensed by the Alcoholic Beverage Control (ABC).
- I. Farmers Market.** A permanent or temporary market facility in which the primary activity is the sale of fresh agricultural goods on a year-round or seasonal basis and the sale of agricultural goods constitutes at least two-thirds of the gross sales for the use.
- J. Funeral Parlors and Mortuaries.** An establishment primarily engaged in the provision of services involving the care, preparation, or disposition of the human dead. Includes areas for assembly services and living quarters for the funeral parlor manager.
- K. Lodging Facilities.**
- 1. **Bed and Breakfast.** A residential structure that is in residential use with one or more bedrooms rented for overnight lodging and where meals may be provided.

2. **Hotels and Motels.** A facility with guest rooms or suites, provided with or without meals and no more than half kitchen facilities, rented to the general public for overnight or other temporary lodging (less than thirty days). Includes hotels, motels, motor lodges, extended-stay hotels, and tourist courts. Lodging facilities may typically include services in addition to lodging, including restaurants, meeting facilities, personal services, and other accessory guest facilities including swimming pools, tennis courts, indoor athletic facilities, accessory retail uses, and parking.
- L. Mini-Storage.** One or more building in a controlled access and fully enclosed compound which contain separate storage spaces of varying size for the storage of customer's goods and possessions.
- M. Personal Services.** An establishment that provides services to individuals and that may provide accessory retail sales of products related to the services provided. Includes barber shops and beauty salons, tanning salons, nail salons, tattoo parlors, state-licensed massage and health spa establishments, shoe repair, jewelry repair, travel agents, small-item repair services, picture framing, video/DVD rental, decorating and design services, pet grooming, self-service laundry and cleaning services, laundry and cleaning pick-up stations (where bulk cleaning and servicing is done elsewhere), dry cleaners that directly serve individual customers, and other similar uses.
- N. Plant Nurseries.** An establishment where plants and other agricultural products are grown for transplanting, for use of stock for building and grafting, or for sale on the premises
- O. Professional Offices.** A place of employment occupied by businesses providing professional, executive, management, or administrative services. Includes offices for accountants, architects, advertising agencies, insurance agents, attorneys, commercial art and design services, non-retail financial institutions, real estate agents, news services, photographers, engineers, employment agencies, real-estate agents, and other similar professions. Excludes “medical offices and clinics.”
- P. Retail.**
 1. **Building Materials.** An establishment engaged in the retail sale of lumber and other building materials primarily to contractors and home builders.
 2. **Convenience Markets.** A retail establishment which contains less than 5,000 square feet of gross floor area allocated for the sale of groceries, staples, dairy products, sundry items, tobacco products and/or alcoholic beverages. Includes liquor stores where all or the majority of the floor area for retail sales is allocated for the sale of alcoholic beverages. Excludes full-service grocery stores containing less than 5,000 square feet of gross floor area where at least ten percent of the floor area is allocated for the sale of fresh meat, seafood and fresh produce products.
 3. **General Retail.** Stores and shops selling merchandise to the general public. Includes grocery stores, specialty food markets, drug stores, general merchandise stores, department stores, clothing stores, pet stores, small hardware stores, cellular

phone sales and service, florists, arts and crafts galleries, and other similar retail establishments. Excludes “building materials,” “convenience markets,” “home improvement centers,” and “large commodity retail.”

4. **Goods Produced On-Site.** A retail establishment selling goods produced by a related on-site manufacturing use.
5. **Home Improvement Centers.** A retail establishment which carries a full line of building materials, appurtenances and decorator items primarily for homeowners (not contractors) to improve and maintain individual dwellings. Excludes building supply yards and lumberyards for contractors and home builders (see “building materials”).
6. **Large Commodity Retail.** A retail use where more than 75 percent of the gross floor area is used for display, sales, and related storage of bulky commodities, and which typically generate a demand for fewer parking spaces than do other types of retail uses. Includes retail sale of carpeting and floor covering; catalog and mail order sales; construction equipment and machinery; garden and farm equipment; heating, ventilating, air conditioning, and other mechanical equipment and supplies; kitchen, bathroom and plumbing appliances, equipment and supplies; lumber and building materials; office furniture, equipment and machinery, including computers; and household furniture

Q. Vehicle-Related Uses.

1. **Fuel and Service Stations.** A retail business establishment supplying fuels and oil and minor accessories for automobiles. Includes establishments supplying gasoline, hydrogen, and electric vehicle charging as a primary land use. Includes incidental food and beverage sales, car wash facilities, minor automotive repair and service, and towing service with up to two trucks. Excludes body and fender work, painting, and other major automotive repairs.
2. **Towing and Impound.** Establishments primarily engaged in towing light or heavy motor vehicles, both local and long distance. May provide incidental services, such as vehicle storage and emergency road repair services.
3. **Vehicle Rentals.** The rental of automobiles and other similar light vehicles.
4. **Vehicle Repair and Maintenance, Major.** An establishment providing not provided for under "vehicle repair and maintenance, minor," including, but not limited to, general repair, rebuilding or reconditioning of: major vehicle components, such as engines, transmissions and differentials; non-passenger vehicles, motor homes or trailers and trucks exceeding one and one-half ton capacity; or body, frame or fender components, including collisions service, upholstery or painting.
5. **Vehicle Repair and Maintenance, Minor.** An establishment providing general service and maintenance of passenger cars and trucks not exceeding one and one-half ton capacity. Service may include the repair or replacement of worn or

defective parts and gaskets external to the basic engine block, such as intake and exhaust manifolds, carburetors and water pumps; engine replacement; the repair or replacement of worn or defective brake parts, clutch parts, mufflers, exhaust system parts, wheel bearings, shock absorbers, tires, batteries, spark plugs and other accessible minor parts; and maintenance work such as the changing or supplementing of vehicle fluids and the adjustment of mechanical components while on the vehicle.

6. **Vehicle Sales and Leasing.** The retail sales or rental of new or used vehicles. Includes the sale of vehicle parts and vehicle repair, provided that these activities are incidental to the sale of vehicles.
 7. **Vehicle Washing.** The washing, waxing, or cleaning of automobiles or similar light vehicles, including self-serve washing facilities.
- R. Wholesaling.** The sale of goods for resale, or the sale of goods produced or processed from raw or primary materials on the premises, or the sale of construction materials which require bulk delivery of the product.

18.124.050 – Industrial Uses

- A. Construction and Material Yards.** Storage of construction materials and/or heavy equipment on a site other than a construction site.
- B. Food and Beverage Production.** A manufacturing establishment producing or processing food products or beverages for off-site consumption and wholesale distribution where the processing of food is primarily from previously prepared or farmed ingredients.
- C. Manufacturing, Light.** The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing and custom manufacturing~~ing~~. Includes manufacture of electric and electronic instruments and devices. Excludes saw and planing mills and manufacturing uses involving primary production of wood, metal or chemical products from raw materials.
- D. Manufacturing, General.** Manufacturing of products from extracted or raw materials or recycled or secondary materials, or bulk storage and handling of such products and materials. Includes operations such as agriculture processing, apparel manufacturing; photographic processing plants; leather and allied product manufacturing; wood product manufacturing; paper manufacturing; chemical manufacturing; plastics and rubber products manufacturing; nonmetallic mineral product manufacturing; primary metal manufacturing; fabricated metal product manufacturing; and automotive and heavy equipment manufacturing.
- E. Research and Development.** A facility for scientific research and the design, development, and testing of electrical, electronic, magnetic, optical, pharmaceutical,

chemical, and biotechnology components and products in advance of product manufacturing. Includes assembly of related products from parts produced off site where the manufacturing activity is secondary to the research and development activities.

- F. Salvage and Wrecking.** Storage and dismantling of vehicles and equipment for sale of parts, as well as their collection, storage, exchange or sale of goods including, but not limited to, any used building materials, used containers or steel drums, used tires, and similar or related articles or property.
- G. Warehousing and Distribution.** A use engaged in storage, wholesale and distribution of manufactured products, supplies, and equipment to retailers; to industrial, commercial, institutional, farm, or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Includes merchant wholesalers; agents, merchandise or commodity brokers, and commission merchants; assemblers, buyers and associations engaged in the cooperative marketing of farm products; and bottling works.
 - 1. **Warehousing and Distribution, Large.** A warehousing ~~a~~-distribution facility ~~over~~ 75,000 square feet or more in building area.
 - 2. **Warehousing and Distribution, Small.** A warehousing ~~a~~-distribution facility less than 75,000 square feet in building area.
 - 3. **Outdoor Storage.** Storage of commercial goods in open lots.

18.124.060 – Transportation, Communication, and Utility Uses

- A. Freight Terminals and Transfer.** Facilities for transfer and movement of freight, courier, and postal services by truck or rail. Excludes “light fleet-based services.”
- B. Light Fleet-Based Services.** Passenger transportation services, local delivery services, medical transport, and other businesses that rely on fleets of three or more vehicles with rated capacities less than 10,000 pounds. Includes parking, dispatching, and offices for taxicab and limousine operations, ambulance services, nonemergency medical transport, local messenger and document delivery services, and similar businesses. Excludes towing operations (see “Towing and Impound”) or delivery services with two or fewer fleet vehicles on site (see “Business Support Services”).
- C. Parking Lots and Structures.** Surface lots and structures for use of occupants, employees, or patrons on the subject site or offering parking to the public for a fee when such use is not incidental to another on-site activity.
- D. Recycling Facilities.**
 - 1. **Reverse Vending Machine.** An automated mechanical device that accepts, sorts and processes recyclable materials and issues a cash refund or a redeemable credit slip.

2. **Recycling Collection Facility.** An incidental use that serves as a neighborhood drop-off point for the temporary storage of recyclable materials but where the processing and sorting of such items is not conducted on site.
 3. **Recycling Processing Facility.** A facility that receives and processes recyclable materials. Processing means preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing.
- E. Transportation Terminals.** Facilities for passenger transportation operations. Includes rail stations and bus terminals but does not include terminals serving airports or heliports.
- F. Utilities, Major.** A permanent structure or facility providing a utility service to the general public. Includes generating plants, electric substations, solid waste collection, solid waste treatment and disposal, water or wastewater treatment plants, and similar facilities. Excludes utilities that are necessary to serve development within the immediate vicinity such as electrical distribution lines and underground water and sewer lines
- G. Wireless Communication Facilities.** See Chapter 18.96 (Wireless Communication Facilities).

18.124.070 – Agriculture and Natural Resource Uses

- A. Animal Raising and Production.** The keeping of cattle, sheep, goats, hogs, poultry, or other livestock on farms, rangeland, or pasture. Excludes slaughterhouses and animal product processing uses.
- B. Animal Raising and Production, Intensive.** An animal raising and production operation that does not qualify as "Animal Raising and Production, Limited."
- C. Animal Raising and Production, Limited.** An animal raising and production operation with no more than two livestock animals per acre up to a maximum of five animals; and no more than 15 chickens, turkeys, ducks or other poultry. Excludes dairies, hog farms, feedlots, aquaculture, confined animal feeding operations, and other similar intensive animal raising and production operations.
- D. Crop Cultivation.** The growing and harvesting of agricultural produce for food and fiber. Includes farms, orchards, groves, greenhouses, lath houses, horticultural nurseries, and wholesale nurseries primarily engaged in growing crops, plants, vines, or trees and their seeds. May include accessory uses for packing, processing, treating, and storing crops grown on site provided such accessory uses are secondary to crop production activities. Excludes growing of marijuana.
- E. Hunting Preserves.** A private or public area for hunting captive-bred game birds and other wildlife.

F. Urban Agriculture. “Urban agriculture” means activities involving the raising, cultivation, processing, marketing, and distribution of food in urban areas.

1. “Home garden” means the property of a single-family or multifamily residence used for the cultivation of fruits, vegetables, plants, flowers, or herbs by the residents of the property, guests of the property owner, or a gardening business hired by the property owner.
2. “Community garden” means privately or publicly owned land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by multiple users. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained or used by group members.
- 4.3. “Urban farm” means privately or publicly owned land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by an individual, organization, or business with the primary purpose of growing food for sale.

E.G. Wildlife Refuges. An area designated for the protection of wild animals, within which hunting and fishing are either prohibited or strictly regulated.

– This Page Intentionally Left Blank –

Chapter 18.128 – GENERAL TERMS

Sections:

18.128.010 – Purpose

18.128.020 – Definitions

18.128.010 – Purpose

This chapter provides definitions of terms and phrases used in the Zoning Code that are technical or specialized, or which may not reflect common usage. If any of the definitions in this chapter conflict with others in the Municipal Code, these definitions shall control for only the provisions of this Zoning Code. If a word is not defined in this chapter or in other chapters of the Zoning Code, the Community Development Director shall determine the appropriate definition.

18.128.020 Definitions

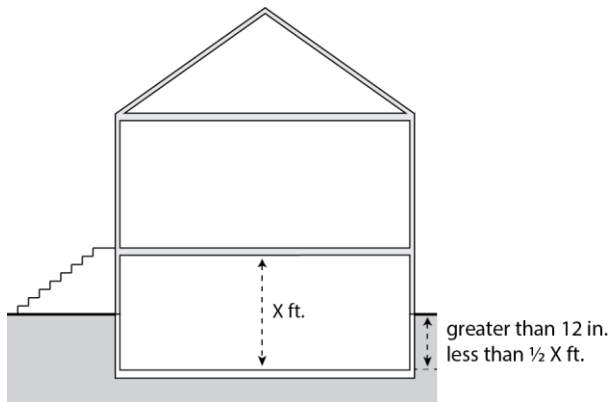
A. “A” Terms.

1. **Abutting.** Land having a common property line or district line, or separated only by a private street, alley, or easement.
2. **Accessory Structure.** A structure subordinate to the principal structure on the same lot.
3. **Adventure Sports Facility. Google search.**
4. **Agent of Owner.** Any person with written authorization to act on behalf of the property owner.
5. **Agriculture.** The use of the land for “crop production” and/or “animal raising and production.”
6. **Alley.** A public or private way not more than 30 feet wide, providing only secondary means of access to abutting property.
7. **Alteration.** A change any of the supporting members of buildings, such as bearing walls, columns, beams or girders.
8. **Ancillary Use.** A use subordinate to the principal use on the same lot and serving a purpose customarily incidental to the principal use.
- ~~8-9.~~ **Attic.** The space within a building between the ceiling beams at the top story and the roof rafters

B. "B" Terms.

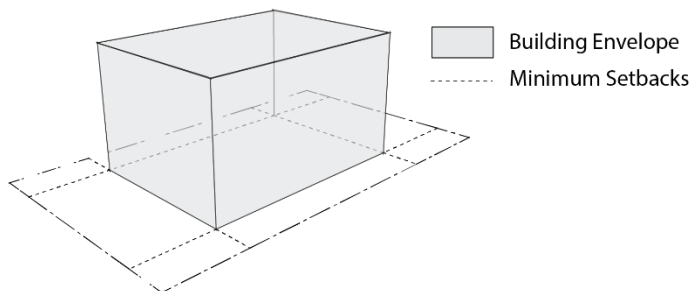
1. **Balcony.** A platform that projects from the wall of a building that is surrounded by a railing or balustrade and does not require separate understructure for support.
2. **Basement.** A story whose floor is more than 12 inches, but not more than one-half of its story height, below the average level of the adjoining ground (as distinguished from a "cellar," which is a story more than one-half below such level). See Figure 8.128-1.

FIGURE 8-128-1: BASEMENT DEFINITION



3. **Building.** Any structure having a solid roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side-yard requirements in the applicable district.
4. **Building Coverage.** The ratio of all principal and accessory buildings on a lot to the total lot area.
5. **Building Envelope.** The volume of space for the principal building as defined by the minimum setbacks and the maximum allowable building height in the applicable district. See Figure 18.128-2.

FIGURE 8-128-2: BUILDING ENVELOPE DEFINITION



6. **Building, Height.** The vertical distance from the average contact ground level at the front wall of the building to the highest point of the building. See Figure 18.128-3.

FIGURE 8-128-3: BUILDING HEIGHT



C. “C” Terms.

1. California Room. A room or space in a building where one or more sides is open and exposed (without a wall or windows) to adjacent outdoor space.
2. **Cessation of Use.** The discontinuation of a use, either temporarily or permanently, ~~for a period of six consecutive months, or for twelve months of any consecutive period of twenty-four months,~~ whether with the intent to abandon such use or not.
3. **City Geologist.** A registered professional geologist certified by the State of California in the specialty of engineering geology (C.E.G.) who is either a City staff member or a consultant retained by the City.
4. **Clear Triangle.** A triangular area bounded by the street right-of-way lines of a corner lot and a line joining points along said street lines 20 feet from the point of intersection.
5. **Commercial.** Any activity on or use of land which involves the buying, selling, processing or improving of things not produced on the land, and having financial gain as the primary aim of the activity or use, whether or not such activity or use is for hire or on account of the buyer, seller, processor or improver.
6. **Conditional Use.** A use that requires approval of a Conditional Use Permit or an Administrative Use Permit.
7. **Condominium.** Individual ownership of a dwelling unit within a multiple-unit structure exclusive of the land underlying such structure.
8. **Condominium Development.** A structure and appurtenant premises divided in ownership by the existence of the condominiums as defined in Section 783 of the California Civil Code. Includes instances where ownership is divided following

prior single ownership of the entire structure and premises, as well as new structures divided in ownership.

D. "D" Terms.

1. **Deck.** A platform, either freestanding or attached to a building, that is supported by piers, pillars or posts.
2. **Driveway.** A permanently surfaced area on a lot designed and required to provide direct access for vehicles between a street and a private garage, carport or other parking space, parking area, or loading area.
3. **Driveway Aisle, Major.** A driveway providing principal access to the parking area or the driveway providing principal circulation throughout the parking areas or premises.
4. **Driveway Apron.** A paved area providing principal access from a drive aisle or street right-of-way to a garage or other covered parking space.
5. **Dwelling.** A building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons. Excludes tents, cabins, trailers and trailer coaches.
6. **Dwelling Unit.** A room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, occupied or intended for occupancy by one family on a non-transient (less than 30-day stay) basis and having not more than one kitchen.
7. **Density.** The number of dwelling units permitted per net lot area.

E. "E" Terms

F. "F" Terms.

1. **Family.** An individual or group of individuals living together who constitute a bona fide single housekeeping unit in a dwelling unit. "Family" does not include a group of individuals occupying a hotel or lodging house of any kind.
2. **Fence.** A structure made of wire, wood, metal, masonry or other material used as a screen or enclosure for a field, yard or lot.
3. **Fence Height.** The vertical distance from the bottom to the top of the fence. Fences placed on top of a retaining wall do not include the height of retaining wall.
4. **Floodplain.** The portion of land adjacent to a creek channel which is covered by water during a 100-year flood event.
5. **Floodway.** A body or channel of a stream, and those portions of the floodplain adjoining the channel, that are required to carry and discharge the floodwater or flood flows of any river or stream, including but not limited to flood flows associated with the regulatory 100-year flood.

6. **Floor Area Ratio (FAR).** A ratio of the gross floor area of a building to the net area of the parcel on which the building is located. Building floor area is measured from the exterior faces of the walls. For residential uses, the gross floor area includes areas for covered parking and staircases on all levels. Basement area is not included in the gross floor area. Accessory structures are not included in the FAR calculation.
7. **Freeway.** A highway where owners of abutting lands have no right or easement of access to or from their abutting lands, or have only limited or restricted right or easement of access. "Freeway" has the same meaning as the term "freeway" as defined in the California Streets and Highways Code.
8. **Funeral Facility and Services.** An establishment where deceased are prepared for burial or cremation, and funeral services may be conducted. Includes funeral homes, funeral parlors, and crematoriums.

G. "G" Terms.

1. **Garage, Private.** An attached or detached accessory dwelling on a lot developed with a residential dwelling used by residents for the storage of passenger vehicles, and other vehicles and equipment permitted on the lot.
2. **Garage, Public.** A structure other than a private garage used for the storage, sale, hire, or care of motor vehicles.
3. **General Plan.** The General Plan of the City of Morgan Hill, California.
4. **Guest House.** A building containing living space that is heated/cooled, with a full bath, without kitchen facilities, and used to house occasional visitors or nonpaying guests of the occupant of the primary dwelling unit. A guest house with a kitchen facility is considered a secondary dwelling unit.

H. "H" Terms.

1. **Home Occupation.** A business within a dwelling unit or residential site, with the business activity being subordinate to the residential use of the property.

I. "I" Terms.

1. **Impervious Coverage.** "Impervious coverage" means the areas of the lot covered by buildings, structures, paving and other non-permeable surfacing.
2. **Industrial Park/Business Park.** A combination of industrial and/or commercial uses of contiguous lots specifically planned for industry, having continuity of design and function and uniform or integrated standards of development established by contract, covenant or deed restriction.

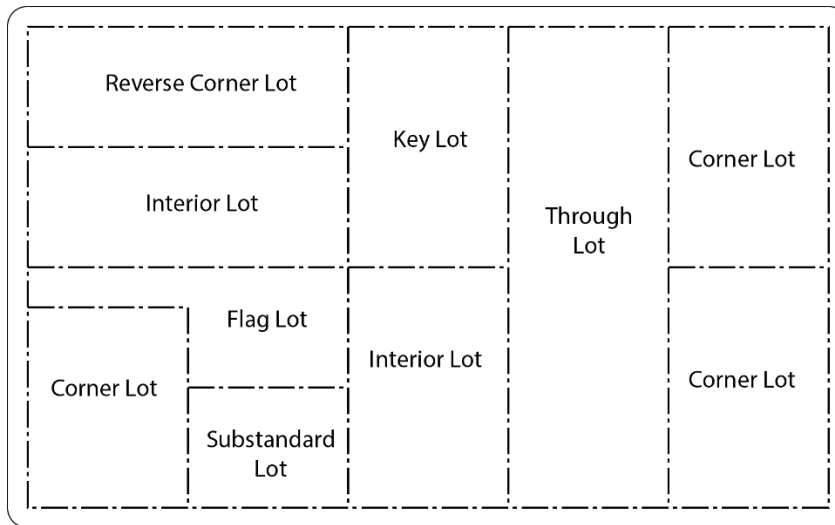
J. "J" Terms

K. "K" Terms.

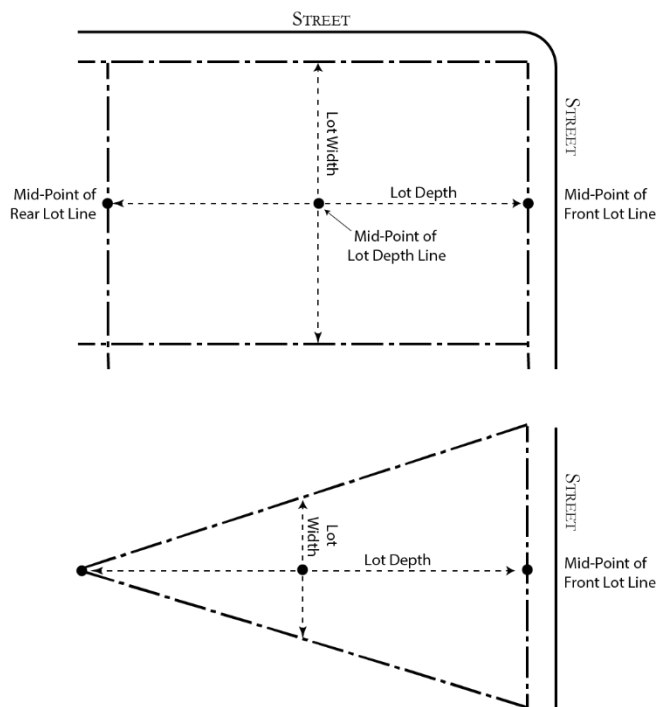
1. **Kennel.** A building or other enclosure to confine, feed, exercise, show or provide shelter for more than five cats or dogs, ten weeks of age or older. May include pet care supplies may be sold as an ancillary activity to the primary shelter use.
2. **Kitchen.** An area in a building primarily designed, constructed, or used for the preparation of food with complete cooking facilities including a stove or separate cook top and oven, refrigerator, and kitchen sink.
3. **Kitchen, Half.** A limited kitchen facility with a small counter space, a refrigerator, a small single compartment sink, a microwave and a small (two burner maximum) cook-top. Half kitchens may not contain any type of oven other than the microwave oven, but may contain a dishwasher.

L. "L" Terms.

1. **Landscaping.** The planting and maintenance of living plant material, including the installation, use, and maintenance of any irrigation system for the plant material, as well as nonliving landscape material (such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials).
2. **Lot.** A piece or parcel of land owned as a single unit in common ownership, occupied or intended to be occupied by a principal building or a group of buildings and accessory buildings, or utilized for a principal use and accessory uses. Lots have frontage on and access to an approved and accepted City street, approved private street, or major driveway aisle for properties in the residential and mixed use districts.
3. **Lot Area.** The net site area of a lot, expressed in terms of acres or square feet. Lot area does not include:
 - a. Land within the limits of a street (public or private) upon which the lot abuts, even if fee title to such street is held by the owner.
 - b. Public easements or private easements other than streets which are in excess of 15 percent of the net site area of the lot.
4. **Lot, Corner.** A lot abutting either a) two streets at their intersections; or b) a curvature of a single street with an interior angle of less than one 135 degrees. The point of intersection of the street lot lines, extending, is the "corner." A corner lot may have more than one corner and may also abut upon one or more streets which do not form the corner or corners of the lot. See Figure 18.128-4.

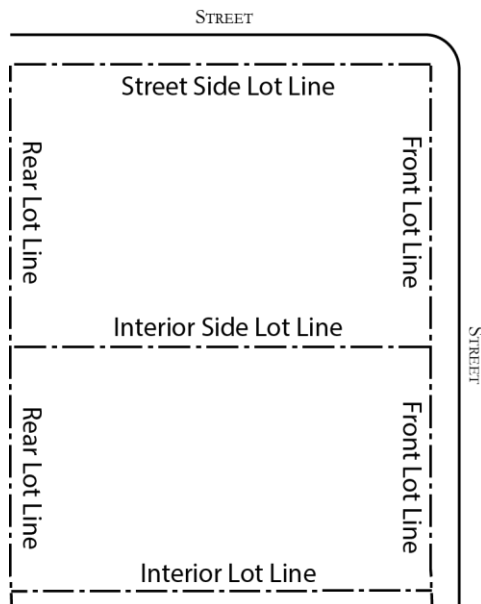
FIGURE 18.128-4: LOT TYPES

5. **Lot Coverage or Building Coverage.** The portion of a lot covered by a building.
6. **Lot Depth.** The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the most distant point on any other lot line where there is no rear lot line. See Figure 18.128-5.

FIGURE 18.128-5: LOT DEPTH AND WIDTH

7. **Lot, Interior.** A lot with only one front lot line.
8. **Lot, Flag.** A lot where the main portion of the lot area does not have access to a street other than by means of a corridor less than twenty feet wide. See Figure 18.128-4.
9. **Lot, Key.** An interior lot adjoining the rear lot line of a reversed corner lot. See Figure 18.128-4.
10. **Lot, Substandard.** A lot that doesn't comply with the minimum dimension standards of the applicable district.
11. **Lot, Through.** A lot having frontage on two parallel or approximately parallel streets.
12. **Lot Line, Interior Side.** A lot line not a front line or a rear line shared with another parcel. See Figure 18.128-6.

FIGURE 18.128-6: LOT LINES



13. **Lot Line, Front.**
 - a. Any of the following (See Figure 18.128-6):
 - (1) Each street lot line of an interior or through lot.
 - (2) On a corner lot, the shorter lot line abutting a street or the line designated as the front lot line.
 - (3) Any street lot line not forming a corner of a corner lot.

- b. If the side yard setback facing the street on a corner is at least as deep as the front yard setback requirement, the Community Development Director may designate the front lot line of corner lots for setback purposes.
- 14. **Lot Line, Rear.** The lot line opposite and most distant from the front line, where such lot line is not also a street lot line. See Figure 18.128-6.
- 15. **Lot Line, Street Side.** A lot line other than a front lot line on a corner lot abutting a street.
- 16. **Lot, Through.** A lot which has two or more front lot lines which do not intersect to form a corner lot.
- 17. **Lot Width.** The distance measured along a straight line between the midpoints of the side property lines.

M. "M" Terms.

- 1. **Massage Establishment.** Means the definition of "massage establishment" as found in Municipal Code Section 5.32.010(D).
- 2. **Manufactured Housing.** Single-family detached housing that is built to the National Manufactured Housing Construction and Safety Standards Act of 1974. Includes structures known as manufactured homes or modular homes.
- 3. **Mixed Use.** A development project where residential and commercial/office uses are combined in an integrated development project with significant functional interrelationships and a coherent physical design for both residential and non-residential uses.
- ~~4. **Mixed Use, Vertical.** A mixed use development in which the non-residential uses are located on the ground floor level and the residential uses are located on upper levels of a single building~~
- ~~5. **Mixed Use, Horizontal.** A mixed use development in which the non-residential uses are located in separate buildings on a single site of one or more contiguous properties.~~
- ~~6.4. **Mobile Home.** A vehicle designed and equipped for human habitation, and for being drawn by motor vehicle. A mobile home is a type of "trailer" or "trailer coach" or "semi-trailer" as defined in the California Vehicle Code, and has the same meaning as "mobile home," as defined in the California Health and Safety Code. Excludes modular or manufactured dwellings intended for assembly on-site on permanent foundations and not designed for subsequent or repeated relocation.~~

N. "N" Terms.

- 1. **Nonconforming Lot.** A legally established lot that does not meet the current minimum depth, width, or area standards of the zone in which the lot is located.
- 2. **Nonconforming Structure.** A legally established structure which does not meet the current development standards for the zone in which the structure is located.

Development standards include but are not limited to setbacks, height or lot coverage regulations of the zone, but do not include standards contained in the Uniform Codes, such as the Building Code.

3. **Nonconforming Use.** A legally established use which does not meet the use regulations of the zone in which it is located.
4. **Nonconforming Use of Land.** The use of either unimproved land or land containing minor structures such as fences and buildings less than 400 square feet in area that does not conform to the regulations of the zone in which it is located.

O. “O” Terms.

1. **Outdoor Display Area.** Any area, either permanent or temporary, used for the display of a product or services which is external to a building.
2. **Overlay Zone.** An area established by the Zoning Code within which requirements apply in addition to requirements of the underlying base zone.

P. “P” Term

1. **Patio.** A level surfaced area which has an elevation of not more than eighteen inches, and without walls or a roof. A patio may be constructed of any materials.
2. **Primary Building.** The building that accommodates the primary use of the site.
3. **Pool House.** A building within the immediate vicinity of a swimming pool which may contain changing rooms, restrooms, shower facilities, kitchen and recreation room. A pool house with a kitchen and full bath facilities is considered a secondary dwelling unit.
4. **Porch.** A covered but unenclosed projecting platform which extends from the main wall of a building that may or may not use columns for other ground supports for structural purposes.
5. **Permitted Use.** A use for which no Conditional Use Permit or Administrative Use Permit is required, but which may require a Design Permit or other approvals as specified in the Zoning Code.

Q. “Q” Terms.

1. **Quasi-public Use.** A use operated by a private nonprofit organization or institution primarily intended to of serve the general public, including but not limited to religious facilities, private schools, and universities, community, youth and senior citizen recreational facilities, and hospitals.

R. “R” Terms.

1. **Recreational Vehicle (RV) Parks.** An establishment designed, established, or used for exclusive occupancy by two or more recreational vehicles. RV parks are owned by a single owner or organizations where RV spaces are temporarily rented or leased to a person occupying an RV.

S. “S” Terms.

1. **Setback.** The distance between a structure and any lot line, public or private street easements, or drive-aisles.
2. **Stable.** A structure used to confine, feed, exercise, show or provide shelter for horses, cows or other hooved animals, whether for private, public or commercial use. Includes stalls, corrals, paddocks, barns, and exercise areas and arenas.
3. **Story.** The portion of a building included between the surface of the floor and the surface of the floor next above it, or, if there is no floor above it, the space between the floor and the ceiling next above it.
4. **Street.** A public or private thoroughfare, including road, highway, drive, lane, avenue, place, boulevard, and any other thoroughfare that affords the principal means of access to five or more lots.
5. **Street, Private.** A paved vehicular access to five or more lots or units over a common parcel or consecutive easements, primarily used by the owners or occupants of the common parcel or consecutive easements and from which the public may be excluded and which are not maintained by a public agency.
6. **Structure.** Anything constructed or erected that requires attachment to the ground, or attachment to something located on the ground. Excludes objects temporarily attached to the ground, or which are easily moved, including but not limited to dog houses, picnic tables, patio furniture, and children’s play structures .
7. **Supportive Housing.** Housing with no limit on length of stay that is occupied by the targeted population and that is linked to an on-site or off-site service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing is permitted in all zones allowing residential uses and is not subject to any restrictions (e.g., occupancy limits) not imposed on similar dwellings (e.g., single-family homes, apartments) in the same zone in which the supportive housing is located.

T. “T” Terms.

1. **Temporary Use.** A use established on private property, that exists for a specified length of time, and which is discontinued within that time period.
2. **Transitional Housing.** A building configured as a rental housing development, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance. Transitional housing is permitted in all zones allowing residential uses and is not subject to any restrictions (e.g., occupancy limits) not imposed on similar dwellings (e.g., single-family homes, apartments) in the same zone in which the transitional housing is located.

U. “V” Terms.

1. **Vehicle Sales Area.** An outdoor open area, other than a street, used for the display, sale or rental of new or used passenger vehicles or other motor vehicles, including recreational vehicles and trailers, campers, and boats in operable condition. Excludes repair work and the mounting of campers on vehicles in the sales area.
2. **Vehicle Wrecking.** The dismantling or disassembling of used vehicles or trailers, the storage, sale or dumping of dismantled, obsolete or wrecked vehicles or their parts, and the towing of such vehicles or parts in connection with such activity.

V. “U” Terms.**W. “W” Terms.****X. “X” Terms****Y. “Y” Terms.**

1. **Yard, Front.** An open space extending the full width of the lot between a building and the front lot line.
2. **Yard, Rear.** An open space extending the full width of the lot between a building and the rear lot line.
3. **Yard, Side.** An open space extending the full width of the lot between a building and the side lot line.

Z. “Z” Terms.

1. **Zoning District.** A defined area within the City of Morgan Hill where uniform land use and development standards apply in accordance with the Zoning Code.